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ABSTRACT

These hearing transcripts present testimony on the effects of the agenda of past Congresses on child welfare and childcare, focusing on the need for welfare and social services reform, subsidized child care, and abuses of the 1974 Child Abuse Prevention and Treatment Act (CAPTA). Testimony was heard from: (1) Representatives Randy "Duke" Cunningham, Dale E. Kildee, and Tim Hutchinson; (2) a Virginia parent who asserts that she was charged unfairly with child neglect; (3) a teacher and grand jury deputy foreman who advocates reform of CAPTA; (4) the legal policy director of the Family Research Council of Washington, District of Columbia; (5) the executive director of the National Committee to Prevent Child Abuse; (6) a mother speaking in support of subsidized child care programs; (7) the director of income security issues for the General Accounting Office; (8) the executive director of the California Child Care and Resources and Referral Network; and (9) the associate director of a day care association in York, Pennsylvania. Additional prepared statements, supplemental materials, and position statements from national and regional organizations are included. (MDM)

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HEARING ON THE CONTRACT WITH AMERICA: CHILD WELFARE AND CHILDCARE

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HEARING

BEFORE THE

SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES

OF THE

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, JANUARY 31, 1995

Serial No. 104–22

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HEARING ON CONTRACT WITH AMERICA: CHILD WELFARE AND CHILDCARE

TUESDAY, JANUARY 31, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES, COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES, *Washington, DC.*

The subcommittee met, pursuant to call, at 10 a.m., Room 2175, Rayburn House Office Building, Hon. Duke Cunningham, Chairman, presiding.

Members present: Representatives Goodling, Gunderson, Castle, Greenwood, Riggs, Weldon, Souder, Kildee, Payne, Engel, Scott, Romero-Barcelo, and Sawyer.

Staff present: Sara Davis and Hans Meeter, Counsel.

Chairman CUNNINGHAM. Good morning. We'll start the hearing on time. We have three different panels, and if it is necessary to stay beyond the amount of time, we will allow extra time in the afternoon barring the witnesses' availability for the panelists. There's been a problem in the past with so many panelists that everyone is not able to ask a question. At a minimum, we'll try and get through where each Member will ask a panel and have five minutes per panel, not per witness, and we'll try and uphold that. If I have to stay over longer as Chairman, I will be happy to do that.

We welcome the audience. I'd like to remind the audience that it is not a participatory audience. It's an FYI. We have had in the past in some of the committees disruption. I won't tolerate that. Those individuals, if you wish to submit something you can for the record within the 10 days. Not many people know that, but if you have a complaint or something personal, please submit it and it will be entered into the record.

I welcome today Tim Hutchinson from the 3rd District from Arkansas. And, Tim, I will make my opening remarks, my colleague, Dale Kildee, will make his opening remarks, and then we'll get right into it.

I'd like to, again, welcome the Majority and the Minority members to this subcommittee. I will submit the majority of my text for the record and go through just some of the highlights. I don't plan on asking questions myself, so this will be my only time to make a statement, and I will do so, but I'm thankful for Dale Kildee, the subcommittee's Ranking Member, who was a former educator himself, and a historian, a history teacher.

When we took over the Majority, the very first day I called Dale Kildee and said, "Dale, I'm going to offer you every hospitality, bit of friendship, fairness, that you offered me," and I really meant that because of the committees, as far as working together, Congressman Kildee is a gentleman. He also was very fair when he was the Chairman in this seat, and we've worked very, very well together, and, Dale, I welcome you and we'll do this thing as a team. Thank you. The gentleman from Michigan is first and foremost a gentleman.

The mandate for change in Federal childcare is upon us, and the basic themes that we are looking at and the reason that we are going through some of these hearings, many of us feel that the child abuse prevention system has failed as it is right now, that it currently allows unwarranted and unregulated investigations. It does not adequately protect the children in which it is really aimed to do. In some cases, it does. It doesn't mean that the systems are all bad. But I think whether it's taxes, whether it's spending, whatever issue we are looking at, the direction is to try and improve the system as it exists.

On the Federal childcare programs we're going to look to try and consolidate. There are 10,000 of them—actually, there are 366 welfare programs. All of them have their own reporting requirements. All of them have certain groups that they cover, and that means on the other end, here in Washington, DC, there's a big bureaucracy that has to collect all of those reports and manage. And the end result is that very little of the funding actually gets down to the source where we intended to do.

The direction of this committee, and I take this Chairmanship very seriously, is to get more of the money down to the groups that really need the funding and eliminate most of the bureaucracies and run government more like a business. I think if we all head in that direction, I think we'll be much, much better off.

The Census Bureau data, by the National Center for Children in Poverty, says 6 million children live in households below the poverty line in 1992. The Great Society programs have failed 6 million children.

Our experience of the past two decades demonstrates that the road to Hades—there was another word written in here but I will say Hades—is paved with good intentions for American children. In response to perceived social needs, Congress developed new childcare and child welfare programs. But in doing so many of those overlapped and the bureaucracies, again, make it ineffective for the direction that we actually want to go. The sad result has been a near doubling of the number of children living in poverty in the past 20 years alone. We have at least 6 million reasons to say the current system is a failure and 6 million reasons to demand why we need to start anew.

Federal regulatory programs are fragmented at best, and as we will hear from our witnesses today, all too prone to tragic results. The trail of tears that leads from the Treasury to our children tells us it's time for that change. The redirection is in the goals that I mentioned previously.

Past Congresses, often with the best intentions, enacted into law newer and bigger childcare programs. They are like a pile of jigsaw pieces, none of which is cut to fit with another.

This subcommittee is committed to providing governors the flexibility to design and implement childcare assistance programs and low-income families in their States. I met recently with the governors and the mayors, and they have both asked us for more flexibility of funding and less bureaucracy, so that they can use the funds that we send them in the best way. What is good for Wisconsin may not be good for San Diego, California and vice versa. Why does the Federal Government tell the States what plan that they actually have to use? If the government gives a plan and a direction, it should be a direction in which the States have the flexibility to make the plans work that work best in their particular State, and I think that that's fair.

We want to end the welfare slavery that exists today from the Great Society programs. Too many times poverty is entrenched by just our own rules that we provide. If a welfare mother, a single parent, works, then quite often she has to pay then childcare. Then, she has to give up her healthcare. Then, she has to probably pay for a little bit of clothes and maybe transportation. The end result is, is that child is left alone without the mother, and the mother actually receives less, so what's the incentive to work? There is none. So, the direction that we want to go is to tie families together, and I think that that will help us as well.

I've got much more here, but the one thing that I want to show, I'm not going to go through the rest of this, but Ross Perot was right. When Ross Perot in his meeting held, and I would show it to the panels, he held up a chart like this one, and we spend our national debt, we talk about a deficit all the time, but our national debt is $4.7 trillion. We pay in the near future nearly $1 billion a day in just the interest on the national debt. That's just the interest. There's not going to be money for WIC. There's not going to be money for Head Start. There's not going to be money for education. If we keep going, what this represents is all income tax dollars that go in just to pay for the interest of the debt, this is what it looks like in 2002, which is not very far off, if we continue at the same rate.

So, if we don't cut the cost, if we don't consolidate these programs, everything is in vain and we can't afford it.

And, with that, I'd like to introduce my colleague, Dale Kildee.

[The prepared statement of Mr. Cunningham follows:]

Testimony of
Rep. Randy "Duke" Cunningham

Chairman, Subcommittee on Early Childhood, Youth and Families
House Committee on Economic and Educational Opportunities

January 31, 1995
9:30 a.m.
Room 2175, Rayburn House Office Building

Let me extend a warm welcome today to our audience, to our distinguished witnesses, and to the Majority and Minority Members of this Subcommittee. I approach this Chairmanship with humility. For the Good Book says he who wishes to lead must first be the servant of all. And there are few callings as high as public service in defense of our nation's children. Chairing this Subcommittee is a high honor and responsibility, one which I will to carry out with vigor and enthusiasm.

Furthermore, I am thankful to have Mr. Kildee as this Subcommittee's Ranking Member. As a former educator himself, the gentleman from Michigan led this Subcommittee's predecessor with distinction and heart. The people's mandate last November made many changes in this panel. But they did not deprive us of one of the House's most hardworking Members. When we agree, I am confident Mr. Kildee and I will work together well. When we disagree, we will make the best case we can and let the votes fall where they may. The gentleman from Michigan is, first and foremost, a gentleman.

Nevertheless, the people have spoken. The mandate for change in federal child care and child protective services is striking in its clarity. And the current system has proven most devastating to those with the least capacity to speak for themselves. They are America's children.

One portion of that population, children ages six and under, was the subject of a recent study of Census Bureau data by the National Center for Children in Poverty. This organization found that six million children lived in households below the poverty line in 1992. That is fully one-quarter of all children under age six. Mr. J. Lawrence Aber, who directed the study, added, "The significance of these figures for our society's social landscape cannot be overstated, because we will pay the costs of these poverty rates for the next two decades."

Indeed we will.

Our experience of the past two decades demonstrates that the road to Hades is paved with good intentions for America's children. Social spending on their behalf is up. In response to perceived societal needs, Congress developed new child care and child welfare programs. With great hope and fanfare, Democrat Congresses wrote, and Presidents of both parties signed landmark legislation targeted to the needs of our children.

The sad result has been the near doubling of the number of young children living in poverty in the past 20 years alone. If Mr. Aber's study is any indication, we have at least six million reasons to say the current system is a failure, and six million reasons to demand we start anew.

What went wrong?

Since the early 1960s, the Federal government has developed and provided to the States several systems of child welfare assistance. We have child abuse and neglect prevention programs, foster care maintenance programs, adoption assistance funding, and many others, all borne of good intentions. These programs often serve the same children at various times in their lives. However, particularly in the area of child protective services, Federal regulatory programs are fragmented at best, and, as we will hear from our witnesses today, all too prone to tragic results. This is a nation where innocent parents are hounded to the ends of the earth, while abused children are all too often returned to homes which are no longer safe. Regrettably, unfounded abuse allegations and multiple foster care placements are the direct product of Federal regulatory zeal.

The trail of tears that leads from the Treasury to our children tells us it is time for a change.

This Subcommittee will pursue the redirection of Federal child protective services programs, so we can help abused children and find permanent homes for children needing real, loving families. Furthermore, it is my hope that we can improve the protection of the young and defenseless, while ending or severely curtailing the kinds of unwarranted, unregulated witch hunts that turn innocent parents' lives.

Many similar symptoms afflict child care in this country. Past Congresses and Administrations, often with the best of intentions, enacted into law newer and bigger child care programs. They are like a pile of jigsaw puzzle pieces, none of which is cut to fit with another. And may Heaven help the family who needs to use them. For the welfare mother who needs child care so she can enter the workforce, Uncle Sam offers not a ladder up, but a ball and chain. Varying eligibility requirements, conflicting funding streams that bureaucrats dare not mix, and confusing regulations conspire against the poor families that are willing to work for another chance at the American dream.

Again, the road to destructive welfare dependency is paved with the good intentions of laws past.

Americans have demanded a change. Those who are demanding the loudest are often the poorest among us.

This Republican Congress is committed to helping able-bodied Americans break their dependency on welfare. This Subcommittee is committed to providing Governors the flexibility to design and implement child care assistance programs that meet the needs of low-income families in their States. And instead of measuring these programs by identifying dotted "i's" and crossed "t's" in a Washington bureaucrat's files, let them be measured by their results -- by the new vitality in our cities, by the hope in the eyes of our children, and by the pride of parents liberated from the bonds of welfare slavery.

No discussion of child welfare and child care programs would be complete without placing it in the larger context of the federal budget. Just last week, a bipartisan majority in the House sent the Senate a Balanced Budget Amendment to the Constitution. The Amendment is a response to what I believe is Washington's greatest moral crisis: its habit of overspending its revenues, running continuous deficits, and piling up debt. Congresses of the past have not been content to spend within our means. They have made this a moral crisis by passing the costs of current government consumption on to our children. A child born today bears an $18,000 share of the national debt. And day by day we pay nearly a billion dollars of interest on over four trillion dollars worth of government debt. Such sustained growth of debt and debt service threatens every child and children's program.

Presidential candidate Ross Perot illustrated this point in one of his famous TV appearances during the 1992 campaign. He produced a map of the United States, with the area west of the Mississippi colored red. That represented the population whose income taxes paid nothing but interest on our national debt -- not national security, or school lunches, or education, but debt service. By the turn of the century, using then-current revenue and spending projections, Perot said that same map of the "lower-48" would be colored red from sea to shining sea to reflect the growing burden of debt and government deficit spending. Fully 100 percent of Americans' income tax payments would be required to pay interest on the national debt.

I raise this critical point for two reasons. One is that we can no longer afford to throw good money after bad. Secondly, and just as important, is that as we consolidate Federal programs and bureaucracies, we intend to provide appropriate, high-quality, and compassionate services to citizens at a good value to taxpayers. Less Federal bureaucracy and less Federal micromanagement and regulation should translate into less cost and less hassle for needy families.

Thus, we begin the work of this Subcommittee with a plate filled to overflowing. Even so, our six-million-plus reasons to embark on a major restructuring of America's child welfare and child care programs can and will be seen as a deadly threat to the special interests in thrall to the status quo. The grant-writers will wail. The bureaucrats will howl. The regulators will say it can't be done, so why even try. And each will parade before the TV cameras a long line of tragic cases whom they say we have forgotten.

But they are wrong.

We have forgotten no one. We are compelled to act because America can no longer bear the injustice and the devastation of the current system. Where Washington and its bureaucracy have failed, we believe Americans and their ingenuity can succeed.

With that, I yield to the Ranking Member, the gentleman from Michigan, such time as he may consume for the purpose of making his opening statement.

# # # #

Mr. KILDEE. Thank you very much, Mr. Chairman.

I was chairman before November, and he called me the day after the election to signal his desire to work together. In fact, he and I have worked very closely together, on a number of education bills in the last Congress, and I look forward to working with you, Duke, on this committee.

Several years ago, I introduced the first childcare bill in this Congress since Richard Nixon was President, so now, fortunately, we have some minimal Federal childcare funds. I've always been concerned that we try to make sure we have quality childcare that is accessible, and accessibility really requires affordability. I'm very concerned about the question of how a block grant will improve the services for children. That's the bottom line. How will children benefit from any type of block grant?

My determination will be based on whether that will improve. I believe there is room for, a great deal of room, and necessity for improvement.

Mr. Chairman, I have two sons who are commissioned officers in the U.S. Army, and as it did during World War II, the Department of Defense has one of the most comprehensive and high-quality childcare systems in the world. Why? DOD's childcare programs, which include Federal nutrition funds, are considered important factors in the military's "readiness" capabilities.

I think our society has to be ready, has to be ready as we endeavor to meet the demands of the 21st century, and meet the needs of our children. I've often wondered why the military has had, at least relatively speaking, a better childcare system, and I think it's because whenever they ask for money we generally resolve our doubts in their favor. I don't recall the military ever having to have a bake sale to provide for a good childcare program, and I see the necessity of very often begging out there for childcare in the civilian world.

As I would want my two sons to have good childcare for their dependents in the military, I would want everyone in America to be able to have safe and affordable childcare, and I want to make sure that we improve childcare, and I want to approach, and scrutinize, and question, and criticize block granting that may not move us in that direction, I fear we are moving in the opposite direction.

And, Mr. Chairman, I appreciate very much you having this hearing this morning.

I'd like to make my entire statement part of the record if possible.

Chairman CUNNINGHAM. With no objection.

[The prepared statement of Mr. Kildee follows:]

STATEMENT OF HON. DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, I want to thank you for convening this morning's hearing on the Child Care and Development Block Grant [CCDBG] and the Child Abuse Prevention and Treatment Act [CAPTA]. Both of these programs play an important role in our efforts to ensure that our Nation's children are afforded a basic level of security, and that they are protected from abusive adults.

Mr. Chairman, I am very concerned about proposals to block grant child care and child welfare programs. Current programs, including the Child Care and Development Block Grant are helping to promote improvements in the quality and availability of child care, but the fact remains that this country does not have a child care

system. We know what quality child care is—there's no secret there—but for so many families in this country "quality" is not even an issue because *no* child care is available at all. In 31 States, there are extremely long waiting lists [30,000 in Illinois, 25,000 in Georgia].

During World War II, when our Nation's war efforts were supported by millions of women working in factories and in shipyards, the national government made child care a high priority. They had to. We needed the skills of every person in America.

The question we must ask today is—what will happen to the young children of this Nation under current welfare reform proposals which will increase parent work requirements while eliminating the guarantee that child care will be available? In my view, there is no question that the current fragmented system will collapse under the weight of new demands created by the pending welfare reform proposals. I support welfare reform and I do not want to see it fail because we have neglected to plan for what happens to children when their parents must work.

Unfortunately, we are rushing so quickly towards block granting child care and child welfare programs that I fear we will not be able to make the kinds of improvements that will strengthen the system as a whole.

Mr. Chairman, as it did during World War II, the Department of Defense has one of the most comprehensive and high quality child care systems in the world. Why? DoD's child care programs—which include Federal nutrition funds—are considered important factors in the military's "readiness" capabilities. Here is a model that we should look to in the next several weeks as we consider welfare reform

I look forward to the testimony of today's witnesses.

Chairman CUNNINGHAM. At this time, we'd like to recognize the Honorable Tim Hutchinson, a Member, Republican, from the great State of Arkansas, and I know Congressman Hutchinson has a lot of concern in this area and he's asked to be the first panelist.

How about it, Tim.

STATEMENT OF HON. TIM HUTCHINSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. HUTCHINSON. Thank you, Mr. Chairman.

I'm before you with great admiration for you getting up so early and being so, apparently, alert, and thank you for the opportunity to speak to you today and particularly address the issue of welfare reform as it relates to family support and child welfare.

As a State legislator in Arkansas for eight years, I heard numerous complaints about our State Department of Human Services. Most of the complaints that I heard were from parents and grandparents who felt that the Department acted as if it were on some kind of witch hunt, barging into people's homes and immediately taking a position that the parents were guilty of abuse or neglect, irrespective of the fact that the Department would often have little or no proof of such an accusation.

Unfortunately, this type of mentality is not unique to Arkansas. I believe that you will hear today from a number of individuals who have had similar experiences across the country. This over-intrusive, guilty until proven innocent government intervention is exactly what the people of America, I think, were speaking against, rallying against on November 8. We need to take that message to heart and reform our child welfare system so that it protects families and does not tear them apart with false and unsubstantiated accusations.

However, Mr. Chairman, there is another side to the problem, and that is the one I would like to focus on today, and that is the problem of too little intervention in certain situations. The reality is that while child welfare divisions are chasing down false accusa-

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tions or even dealing with minor cases of neglect, there are children who are being beaten and killed.

Mr. Chairman, this past fall I received a 1,300-name petition from citizens in northwest Arkansas in my district regarding the child abuse case of Kendall Shay Moore. Kendall Moore was a tiny infant who in the first five months of his life had virtually every bone in his body broken and his skull cracked. Finally, on April 7, 1994, after the baby was admitted to the intensive care unit of Washington Regional Hospital, authorities arrested those responsible for this horrendous abuse, the child's own father, and as an accomplice, the baby's mother.

Based on the police report, a news article stated, "There was a possible fracture in its healing stage on the left side of the skull just over the ear and on the right side of the skull appeared an indentation moving down his body. The top of the ribs on the child's left side had been fractured. Both of the child's femur bones had fractures that had mended themselves, and another small fracture was detected on the lower left leg. The upper right arm had been fractured. A visual examination revealed that he had several bruises and scrapes over his body. Along the diaper line appeared to be two small reddish-brown bruises on either side of his navel, and on his lower back was a large bruise along the spinal cord and more bruising on the back of his left leg."

Some of these injuries were estimated to be two months old, and that would have made Kendall Moore three months old when he received them.

The baby's father was subsequently sentenced to 28 years in prison. A five year prison sentence was recommended for the mother, which was then downgraded to a three year suspended sentence. As you can imagine, this case caused a tremendous uproar in northwest Arkansas, but the action that really incensed my constituents and compelled them to involvement was when the Department and the court recommended that Kendall Moore be returned to his mother.

On January 18, 1995, less than two weeks ago, just over nine months from the time he was admitted to the intensive care unit, Kendall Shay Moore was permanently returned to his mother's custody.

In response to the outcry from my constituents, on January 21 I hosted a meeting in my district office bringing together Arkansas State legislators, foster parents and child advocates. Quite frankly, I was horrified by the stories that I heard from these foster parents. Time and time again they told me of children being returned to abusive situations. They told me of foster parents being aware of criminal abuse and not being able to testify in court. For instance, if an actual parent had visitation rights while their child was in foster care and the foster parents became aware of continuing abuse during these visitations, it was very difficult for them to be able to testify to this fact in court.

I was also told of doctors not being able to come forward due to confidentiality concerns, and unfortunately, Mr. Chairman, I do not believe that that situation is unique to Arkansas or to the Kendall Shay Moore situation.

Let me state again that I'm a strong supporter of the family and of doing everything we can to keep families together and encouraging the bond between parent and child, and also a strong defender of the constitutional rights of the parents.

However, we in government have an obligation to protect the weak and the most vulnerable. There is something seriously wrong when we allow children and infants to be returned to homes where criminal abuse has occurred.

Mr. Chairman, I realize that there is a great movement here in Congress to abolish Federal programs and return the money to the States in the form of block grants, and I, in general, am very, very supportive of that. However, I believe we need to give the States some overall guidelines to follow in constructing their programs.

I would suggest that first we need to allow foster parents a greater voice in both our child welfare system and our judicial system. If a child is under their temporary care and they become aware of continuing abuse, they must be able and, in fact, encouraged to come forward with that information.

Secondly, I would suggest that we need to encourage stronger ties between the Judicial Branch and the State Human Services departments. In defense of the departments, they are not equipped to deal with cases of criminal abuse, nor should they be. These cases rightfully fall under our judicial system. We need to devise a way to make it easier for these two governmental entities to work together.

We also need to encourage our judicial system to make child abuse cases a higher priority. Too often, these are the cases that end up on the bottom of the stack, and we need to encourage prosecutors to vigorously pursue them and push for the strongest possible penalties when a conviction is returned.

Finally, Mr. Chairman, Members of the committee, I have a recommendation that may seem extreme, and it's one that I only make after serious thought and consideration. When parents are convicted of criminal abuse, and only in cases of criminal abuse, they should have their custodial rights terminated. This is only after the parents have had an opportunity to be heard in court and the evidence has been presented, a conviction has been rendered by a jury of their peers. This termination of custodial authority should not mean that all ties should be cut, quite to the contrary, there are certain times they should be given visitation rights, be able to build some type of relationship with their child.

But, Mr. Chairman, under no circumstances should any child, these the most vulnerable in our society, be put back into a home where the parent was convicted of criminal abuse in a court of law. Children like Kendall Shay Moore should never have to face the possibility of abuse again, and we owe our children better than that.

And so, while I realize that there are no easy answers to this problem, as we witness the continuing dissolution of the American family in our society, I fear that the incidence of child abuse will only increase, and so we need to act, we need to provide guidance to the States, and I would welcome the opportunity to work with the Members of your subcommittee in ways that we can successfully accomplish that.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hutchinson follows:]

THE HONORABLE TIM HUTCHINSON

JANUARY 31, 1995

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

THANK YOU MR. CHAIRMAN. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS THE ISSUE OF WELFARE REFORM AS IT RELATES TO FAMILY SUPPORT AND CHILD WELFARE.

AS A STATE LEGISLATOR FOR EIGHT YEARS I HEARD NUMEROUS COMPLAINTS ABOUT OUR STATE DEPARTMENT OF HUMAN SERVICES. MOST OF THE COMPLAINTS THAT I HEARD WERE FROM PARENTS AND GRANDPARENTS WHO FELT THAT THE DEPARTMENT ACTED AS IF IT WERE ON A WITCH HUNT, BARGING INTO PEOPLE'S HOMES AND IMMEDIATELY TAKING A POSITION THAT THE PARENTS WERE GUILTY OF ABUSE, IRRESPECTIVE OF THE FACT THAT THE DEPARTMENT WOULD OFTEN HAVE LITTLE OR NO PROOF OF SUCH AN ACCUSATION.

UNFORTUNATELY, THIS TYPE OF MENTALITY IS NOT UNIQUE TO ARKANSAS. I BELIEVE THAT YOU WILL HEAR TODAY FROM A NUMBER OF INDIVIDUALS WHO HAVE HAD SIMILAR EXPERIENCES ACROSS THE COUNTRY. THIS OVERINTRUSIVE, "GUILTY UNTIL PROVEN INNOCENT" GOVERNMENT INTERVENTION IS EXACTLY WHAT THE PEOPLE OF AMERICA RALLIED AGAINST ON NOVEMBER 8TH. WE NEED TO TAKE THAT MESSAGE TO HEART AND REFORM OUR CHILD WELFARE SYSTEM SO THAT IT PROTECTS FAMILIES AND DOES NOT TEAR THEM APART WITH FALSE AND UNSUBSTANTIATED ACCUSATIONS.

HOWEVER, THERE IS ANOTHER SIDE TO THIS PROBLEM AND IT IS THE ONE THAT I WOULD LIKE TO FOCUS ON TODAY -- THE PROBLEM OF TOO LITTLE INTERVENTION. THE REALITY IS THAT WHILE CHILD WELFARE DIVISIONS ARE CHASING DOWN FALSE ACCUSATIONS OR EVEN DEALING WITH MINOR CASES OF NEGLECT, THERE ARE CHILDREN WHO ARE BEING BEATEN AND KILLED.

MR. CHAIRMAN, THIS PAST FALL I RECEIVED A 1,300 NAME PETITION FROM CITIZENS IN NORTHWEST ARKANSAS REGARDING THE CHILD ABUSE CASE OF KENDALL SHEA MOORE. KENDALL MOORE WAS A TINY INFANT WHO IN THE FIRST FIVE MONTHS OF HIS LIFE HAD VIRTUALLY EVERY BONE IN HIS BODY BROKEN AND HIS SKULL CRACKED. FINALLY ON APRIL 7, 1994 AFTER THE BABY WAS ADMITTED TO THE INTENSIVE CARE UNIT OF WASHINGTON REGIONAL HOSPITAL, AUTHORITIES ARRESTED THOSE RESPONSIBLE FOR THIS HORRENDOUS ABUSE -- THE CHILD'S OWN FATHER AND AS AN ACCOMPLICE, THE BABY'S MOTHER.

BASED ON THE POLICE REPORT, A NEWS ARTICLE STATED, "THERE WAS A POSSIBLE FRACTURE IN ITS HEALING STAGE ON THE LEFT SIDE OF THE SKULL JUST OVER THE EAR AND, ON THE RIGHT SIDE OF THE SKULL, APPEARED AN INDENTATION MOVING DOWN HIS BODY. THE TOP OF THE RIBS ON THE CHILD'S LEFT SIDE HAD BEEN FRACTURED, BOTH OF THE CHILD'S FEMUR BONES HAD FRACTURES THAT HAD MENDED THEMSELVES, AND ANOTHER SMALL FRACTURE WAS DETECTED ON THE LOWER LEFT LEG, ALSO IN THE HEALING STAGE. THE UPPER RIGHT ARM HAD BEEN FRACTURED AND WAS IN THE HEALING STAGE. A VISUAL EXAMINATION REVEALED THAT HE HAD SEVERAL BRUISES AND SCRAPES OVER HIS BODY. THERE WAS A SMALL SCAB ON HIS LEFT EYELID AND A BLUE DISCOLORATION JUST BETWEEN THE EYES, AT THE BRIDGE OF THE NOSE. ON THE RIGHT SIDE OF HIS HEAD, IN FRONT OF THE EAR, HE HAD A BRUISE; AND LOWER DOWN ON HIS CHIN WERE TWO OTHER SMALL BRUISES. TWO SCAB MARKS WERE UNDER HIS LOWER LIP, AND ON THE FRONT OF HIS NECK WERE TWO HORIZONTAL SCABBED-OVER MARKS. ALONG THE DIAPER LINE APPEARED TO BE TWO SMALL REDDISH BROWN BRUISES ON EITHER SIDE OF HIS NAVEL. ON HIS LOWER BACK WAS A LARGE BRUISE ALONG THE SPINAL CORD AND MORE BRUISING ON THE BACK OF HIS LEFT LEG." SOME OF THESE INJURIES WERE ESTIMATED TO BE TWO MONTHS OLD. THAT WOULD HAD MADE KENDALL MOORE THREE MONTHS OLD WHEN HE RECEIVED THEM.

THE BABY'S FATHER WAS SUBSEQUENTLY SENTENCED TO 28 YEARS IN PRISON. A FIVE YEAR PRISON SENTENCE WAS RECOMMENDED FOR THE MOTHER, WHICH WAS THEN DOWNGRADED TO A THREE YEAR SUSPENDED SENTENCE.

AS YOU CAN IMAGINE, THIS CASE CAUSED AN UPROAR IN NORTHWEST ARKANSAS. BUT THE ACTION THAT REALLY INCENSED MY CONSTITUENTS AND COMPELLED THEM INTO INVOLVEMENT WAS WHEN THE DEPARTMENT AND THE COURT RECOMMENDED THAT KENDALL MOORE BE RETURNED TO HIS MOTHER.

ON JANUARY 18, 1995, JUST OVER NINE MONTHS FROM THE TIME HE WAS ADMITTED TO THE INTENSIVE CARE UNIT, KENDALL SHEA MOORE WAS PERMANENTLY RETURNED TO HIS MOTHER'S CUSTODY.

IN RESPONSE TO THE OUTCRY FROM MY CONSTITUENTS, ON JANUARY 21ST I HOSTED A MEETING IN MY DISTRICT OFFICE, BRINGING TOGETHER ARKANSAS STATE LEGISLATORS, FOSTER PARENTS AND CHILD ADVOCATES. QUITE FRANKLY, I WAS HORRIFIED BY THE STORIES I HEARD FROM THESE FOSTER PARENTS. TIME AND TIME AGAIN THEY TOLD ME OF CHILDREN BEING RETURNED TO ABUSIVE SITUATIONS. THEY TOLD ME OF FOSTER PARENTS BEING AWARE OF CRIMINAL ABUSE AND NOT BEING ABLE TO TESTIFY IN COURT. FOR INSTANCE, IF A NATURAL PARENT HAD VISITATION RIGHTS WHILE THEIR CHILD WAS IN FOSTER CARE, AND THE FOSTER PARENTS BECAME AWARE OF CONTINUING ABUSE DURING THESE VISITATIONS, IT IS DIFFICULT FOR THEM TO BE ABLE TO TESTIFY TO THIS IN COURT. I WAS ALSO TOLD OF DOCTORS NOT BEING ABLE TO COME FORWARD DUE TO CONFIDENTIALITY CONCERNS. UNFORTUNATELY, MR. CHAIRMAN, I DO NOT BELIEVE THIS SITUATION IS UNIQUE TO ARKANSAS.

LET ME STATE AGAIN THAT I AM A STRONG SUPPORTER OF THE FAMILY AND OF DOING EVERYTHING WE CAN TO KEEP FAMILIES TOGETHER AND ENCOURAGING THE BOND BETWEEN PARENT AND CHILD. I AM ALSO A STRONG DEFENDER OF THE CONSTITUTIONAL RIGHTS OF THE PARENTS.

HOWEVER, WE IN GOVERNMENT HAVE AN OBLIGATION TO PROTECT THE WEAK AND VULNERABLE. THERE IS SOMETHING SERIOUSLY WRONG WHEN WE ALLOW CHILDREN AND INFANTS TO BE RETURNED TO HOMES WHERE CRIMINAL ABUSE HAS OCCURRED.

MR. CHAIRMAN, I REALIZE THERE IS A GREAT MOVEMENT HERE IN CONGRESS TO ABOLISH FEDERAL PROGRAMS AND RETURN THE MONEY TO THE STATES IN THE FORM OF A BLOCK GRANT. I WOULD SUPPORT SUCH AN ACTION, HOWEVER, I BELIEVE WE NEED TO GIVE THE STATES SOME OVERALL GUIDELINES TO FOLLOW IN CONSTRUCTING THEIR PROGRAMS.

FIRST, WE NEED TO ALLOW FOSTER PARENTS A GREATER VOICE IN BOTH OUR CHILD WELFARE SYSTEM AND OUR JUDICIAL SYSTEM. IF A CHILD IS UNDER THEIR TEMPORARY CARE AND THEY BECOME AWARE OF CONTINUING ABUSE, THEY MUST BE ABLE, AND IN FACT ENCOURAGED, TO COME FORWARD WITH THIS INFORMATION.

SECOND, WE NEED TO ENCOURAGE STRONGER TIES BETWEEN THE JUDICIAL BRANCH AND THE STATE HUMAN SERVICES DEPARTMENTS. IN DEFENSE OF THE DEPARTMENTS, THEY ARE NOT EQUIPPED TO DEAL WITH CASES OF CRIMINAL ABUSE. NOR SHOULD THEY BE. THESE CASES RIGHTFULLY FALL UNDER OUR JUDICIAL SYSTEM. WE NEED TO DEVISE A WAY TO MAKE IT EASIER FOR THESE TWO GOVERNMENT ENTITIES TO WORK TOGETHER.

WE ALSO NEED TO ENCOURAGE OUR JUDICIAL SYSTEM TO MAKE CHILD ABUSE CASES A HIGHER PRIORITY. TOO OFTEN THESE CASES ARE GIVEN THE LOWEST PRIORITY. WE NEED TO ENCOURAGE PROSECUTORS TO VIGOROUSLY PURSUE THEM AND PUSH FOR THE STRONGEST POSSIBLE PENALTIES WHEN A CONVICTION IS RETURNED.

FINALLY, MR. CHAIRMAN, I HAVE A RECOMMENDATION THAT MAY SEEM EXTREME AND IT IS ONE THAT I MAKE ONLY AFTER SERIOUS THOUGHT AND CONSIDERATION. WHEN PARENTS ARE CONVICTED OF CRIMINAL ABUSE, AND ONLY IN CASES OF CRIMINAL ABUSE, THEY SHOULD HAVE THEIR CUSTODIAL RIGHTS TERMINATED. THIS IS ONLY

AFTER THE PARENTS HAVE HAD THE OPPORTUNITY TO BE HEARD IN COURT, THE EVIDENCE HAS BEEN PRESENTED, AND A CONVICTION HAS BEEN RENDERED BY A JURY OF THEIR PEERS.

THIS TERMINATION OF CUSTODIAL AUTHORITY DOES NOT MEAN THAT ALL TIES SHOULD BE CUT -- QUITE THE CONTRARY -- AFTER A CERTAIN TIME, THEY SHOULD BE GIVEN VISITATION RIGHTS AND BE ABLE TO BUILD SOME TYPE OF RELATIONSHIP WITH THEIR CHILD. HOWEVER, UNDER NO CIRCUMSTANCES SHOULD ANY CHILD BE PUT BACK INTO A HOME WHERE THE PARENT WAS CONVICTED OF CRIMINAL ABUSE IN A COURT OF LAW.

CHILDREN, LIKE KENDALL SHEA MOORE SHOULD NEVER HAVE TO FACE THE POSSIBILITY OF ABUSE AGAIN. WE OWE OUR CHILDREN BETTER THAN THAT.

MR. CHAIRMAN, I REALIZE THAT THERE ARE NO EASY ANSWERS TO THIS PROBLEM. AS WE WITNESS THE CONTINUING DISSOLUTION OF THE FAMILY IN OUR SOCIETY, I FEAR THAT THE INCIDENCE OF CHILD ABUSE WILL ONLY INCREASE. WE NEED TO ACT. WE NEED TO PROVIDE GUIDANCE TO THE STATES AND I WOULD WELCOME THE OPPORTUNITY TO WORK WITH YOU AND THE COMMITTEE ON WAYS IN WHICH WE COULD ACCOMPLISH THIS.

THANK YOU MR. CHAIRMAN.

Chairman CUNNINGHAM. Thank you, Congressman Hutchinson, and for the new Members, the green light is four minutes long, the gold light, as I'd like to refer to it, is one minute long. If you ask questions up to the gold light, you have one minute left, and if you end when the red light comes on the panelists will have one minute in summation, and then if there's any time after that one minute they can submit to that Member for the record. That way, we can get through the panelists and have plenty of time.

Quite often, a Member will ask all the way questions up to the red light, and then the panelist will go on for another five minutes, and it doesn't give all the panelists the time that they want. So, I'd like to try to conduct that.

At this time, I will recognize the Ranking Member, Mr. Kildee, and then I will go to Mr. Castle on deck.

Mr. KILDEE. Thank you very much, Mr. Chairman, and, Mr. Hutchinson, it's good to have you before the committee this morning. I've served on this committee for 19 years. It's always good to have another Member of Congress up here before the committee.

We're trying to sort our way through some of the most profound changes in the whole welfare system, since its inception. What can we do on the Federal level to help increase the availability of childcare under the pending requirements that AFDC parents go to work? As they go to work, we're going to really need a vastly expanded childcare system. Only about 7 percent are working now, what do we do when 93 percent are called to go to work, and how can we provide for childcare.

There's been two things in my experience that has kept people on welfare. One, of course, is the lack of training to work, and the other is a lack of good childcare. If we are going to move toward requiring people to take a job, what is the role of the Federal Government in expanding that childcare?

Mr. HUTCHINSON. Mr. Chairman, I appreciate your question, and I understand this has been a long-time concern of your's and a long-time area of your involvement.

I would only say that from my experience as a State legislator and my experience in the private sector that we have a welfare system that is terribly gone awry, that it is desperate need, not of incremental and small changes and tinkering with the system, but it is in need of very fundamental and basic changes.

I believe that the greatest reforms that are taking place in welfare reform today are occurring on the State level, and what is exciting in welfare reform and what we see happening in States like Wisconsin, New Jersey, Delaware and in Minnesota, Mississippi with Governor Fordyce, and frankly, I believe that the Federal Government's role in childcare should be minimal and should be restricted to the areas of tax credits and areas in which we could encourage and make childcare more economically feasible, but that we should give the States the greatest possible latitude.

And, I come before you today, not as any kind of expert or claiming to be any kind of expert on many of these issues, particularly, the child abuse issue that I was addressing, or child daycare issues for that matter, but I come to you as someone who has observed some problems and recognize that there's a desperate need for us to find solutions together.

Mr. KILDEE. Well, your own background is very good in this, and I appreciate that. I'm just concerned about block granting when we know that the need for childcare right now is enormous, and as more and more people are told to go into the work force the need will be greater.

Work should always be more attractive than welfare. But we will be requiring many mothers to make some very, very difficult decisions. I've seen mothers in my district that had to choose risking their children's future by placing them in jeopardy in childcare facilities that are unsafe, even with licensing and inspection very often a childcare facility is never inspected.

How will a State like Arkansas use a block grant to expand childcare and improve the quality of childcare?

Mr. HUTCHINSON. Well, I believe that one of the lessons from the elections was a rejection of the notion that Washington, DC is the fount of all wisdom, and, particularly, is that true in the area of welfare, that the great success stories are happening in the States. And, if we'll just give them greater flexibility and greater latitude, that we will find them being the models and the laboratories of democracy that they were intended to be, and that we can, perhaps, learn some valuable lessons on our proper role as we see what they are doing.

Mr. KILDEE. Thank you, Mr. Chairman.

Thank you, Mr. Hutchinson.

Chairman CUNNINGHAM. Thank you.

And, on deck, Mr. Castle. I'd like to make one comment. As my vision would be not to take away the welfare payment, the incentive which we take half of when a woman, a single parent goes to work. I think if we can provide that over a two-year period, give them the best available health care, give them childcare and help them get to work, and give them the incentive to get off welfare, then that may be the best direction we can go.

And, I would recognize the great governor, former governor, Mr. Castle, who brings a lot of insight into this committee. Governor Castle from Delaware.

Mr. CASTLE. Thank you very much, Mr. Chairman. Your greatness is appreciated. I'm not sure everybody in Delaware believes that, but thank you for saying it.

Chairman CUNNINGHAM. You notice I included Delaware in my list of States.

Mr. CASTLE. That's correct.

Tim, some people here may not know that you've been a great leader in this whole welfare reform effort. I'd like to ask you a question about that in a minute, but first, and by the way I agree with something in your testimony, which is, there are times when the rights of biological parents are superseded by the rights of children, and how we do that I don't know. The only thing I may disagree with is whether it should be a jury trial, and I'm not too sure that judges sometimes can't make better decisions, but I think you are absolutely correct along those lines.

And, you've also hinted at, and it's just amazing to see the number of child abuse programs. They are like a lot of other things in the Federal Government, they get created for the moment, for that particular problem that particular day, and they go on, and on and on, and I assume, having worked with you before, that you are 110 percent behind consolidation and streamlining of these programs in every way possible.

Mr. HUTCHINSON. Absolutely.

Mr. CASTLE. Let me ask you another question. It's a little bit off, and it's something Congressman Greenwood actually was pursuing yesterday when we were on a panel of the Ways and Means, but it interested me because I know you are interested in it, and I'm attracted to it for different reasons, or little reasons beyond just some of the normal reasons, and that is the whole business of young people having children. My experience in dealing with child abuse and dealing with a lot of problems, a lot of it goes away as people mature, as they get older. And, we know that there are many teenagers having children almost inevitably without a father, almost inevitably without any economic support, usually while they are still living in some form of a home, and this has been going on for some time.

It is in the Personal Responsibility Act, which is the Contract With America Welfare Reform Act, that the direct benefits should not be received by children under the age of 18. I tend to agree with that for a variety of reasons. I think we need to discourage early out-of-wedlock births in every way possible. That's one of the reasons I'm so avid on paternity and child support and anything we can to encourage that.

But, sometimes I get a little confused about exactly how we are going to care for these kids and make sure that we prevent abuse or whatever it may be, and I didn't know what your thoughts about that were in terms of, I guess they would still receive Medicaid and food stamps, but I'm not sure that a 16-year old should ever physically be handling any of those things, and I'm not too sure we shouldn't have contracts with social workers and some better way of managing kids who are born at that young age than we do today. I'd just like to get your broad thoughts on that and tie it into the abuse situation.

Mr. HUTCHINSON. Okay.

Well, I think you are exactly right. I can't think of a worse thing for us to do to a 15-year old young lady than to give her a cash allowance and say, here. There may be an abusive man in her life, a drug addict, that would be taking that money. So, that's not the answer, and that's what we've been doing, and we've created a very perverse kind of incentive in the system that allows irresponsible behavior to be acted out.

So, I think that what we've got in the Personal Responsibility Act is a big step in the right direction.

What I've seen, and what I was referring to in my testimony is two extremes in our child welfare department, where there is over-intervention often times in cases of very unsubstantiated reports, and under-intervention when it comes sometimes to the very, very severe cases, such as Kendall Shay Moore.

When I met with 30 [illegible] 40 of these parents in my office a couple of weeks ago, one of the promises, one of the commitments I made was that I would bring their story and their experience to this subcommittee. And, the reason I am here is partially in fulfillment of that pledge. I think it's very serious, and as you look at reauthorizing the Child Abuse Prevention Treatment Act that you will take into consideration, not just all of the reports we hear about parents who have seen an over-intrusive Department of Human Services enter their home and their family, but also take a serious look at these kinds of cases where it's very serious abuse.

I think that when we require paternity establishment, and when we get very tough on our child support enforcement laws, and that is a national concern, I do think we need a national network, and I think there's broad consensus on that on enforcement to make dead-beat fathers pay, when we require the under-18-year-old single mom to live at home in order to receive benefits, and when we cut off the cash benefits while allowing the food and the Medicaid to be available, I think we are taking a very, very big step at removing that current appeal that the system has for a teenage girl to make a wrong decision thinking she's going to get a government-subsidized apartment, government-subsidized healthcare, perhaps, government-subsidized child care, she's going to get food stamps, and she's going to get a cash allowance, and that that's her way to get out of her bad home situation and think that she's independent.

So, I think our Personal Responsibility Act is a big step in the right direction.

Mr. CASTLE. Thank you.

Chairman CUNNINGHAM. Thank you, and the gentleman from Puerto Rico, Mr. Romero-Barcelo is recognized for five minutes.

Mr. ROMERO-BARCELO. Thank you, Mr. Chairman.

Good morning, Mr. Hutchinson.

Mr. HUTCHINSON. Good morning.

Mr. ROMERO-BARCELO. I am concerned about the block grants from this point of view. The block grants involve Federal funds, which are moneys collected by the Federal Government. And, the Federal Government does have a fiduciary relationship with its citizens. And, by giving block grants to the States—as we've heard in other testimonies and in other committees—that they are thinking in terms of just giving a block grant in an area of government endeavor and let the States pick up the programs, design their own programs and do whatever they want almost with that money. I'm concerned that the Federal Government has a responsibility, and if we do it that way we are going to have so many different programs throughout the country, we think we have many problems now, we do it that way and we'll have thousands and thousands of different problems, and in every State the local groups will try to get a program for themselves, and they put pressure on the legislature, and that's what eventually will happen.

So, I see the arguments for block grants, but we have to do a lot of things and a lot of changes in the welfare system, and there's no discussion on that, we have to find ways to promote people to get to work instead of being on welfare, and that's something that nobody is going to argue either.

But, we have to provide leadership. How can we say that we in Congress are incapable of determining which programs should be there? Now, we can have 10 programs for helping unwed mothers, or helping single mothers and their children, but they must be defined, those programs must be defined at the level of Federal Government. And, I think each program should be given an amount and then when those amounts are added, put together, that's the block grant. You say you take this block grant.

Now, if you don't want to have this program, you can eliminate it, but you have to choose from this menu, give the States a menu which is already defined and determined which contains the kind of programs that the Federal Government and the Congress feels that should be appropriate, and not let every State go out there on their own, and inventing all kinds of programs. I think we are going to really, really create a mess.

I mean, I'd like to hear your comments on that.

Mr. HUTCHINSON. Well, I think this Congress has rediscovered the 10th Amendment, and that we need to reserve as much as we possibly can to the States. There is a fiduciary responsibility that we have, and I think that can be met by providing broad guidelines and policy guidelines with those block grants.

What the governors, I keep hearing from the governors, is that their futility, their frustration, is having to come to Washington and bow down and kiss reins, and ask for waivers, in order to devise a welfare reform plan in their own States. And so, I believe that we can meet our responsibilities by providing some accountability, providing some broad guidelines, but greatly simplifying, giving the States the greatest possible latitude and the greatest possible flexibility.

Basically, if our concern is children, and our concern is those who are poor and in our welfare system, it should be that we get them the most help with the least overhead, and the current system has enormous bureaucracy, enormous red tape, and enormous overhead, too little of it actually gets to those who are in need, and I believe giving the States more latitude in this will be a step in the right direction.

There may be thousands of programs, but I think very quickly it's going to be discovered which States have effective programs and which ones don't, and that those that are working are going to be followed in other States and emulated in other States, and those that aren't working it will soon be evident, and certainly what we've done from the Federal level the last 30 years, I don't think we've got a great record of success to go to the States and say we know better than you do.

So, I really believe that the dynamic that has occurred since November 8, to give the States much greater flexibility, much greater latitude, with only the broadest guidelines from the Federal Government, is the right direction. I mean, true federalism would be to get the Federal Government out of it all the way, let them raise their own money, let them develop their programs. So, as long as the money is going through Washington, and we're sending it back in block grants, I do think we've got a responsibility to provide some guidelines.

In my testimony today, I was really suggesting that in some of the areas that this subcommittee is involved there should be some Federal directives, but I do believe we must simplify it, we must leave the States much greater flexibility.

Mr. ROMERO-BARCELO. I find that with all the bureaucracy that we have now there is still very, very little monitoring and very little supervision. Now, if you have all the States having different programs, and we cut down on the Federal employees and Federal jobs, how are they going to really supervise, how are they really going to demand accountability? Who will be there to demand the accountability? I don't think we'll have enough people to demand proper accountability.

Chairman CUNNINGHAM. You have 45 seconds.

Mr. HUTCHINSON. Okay.

Well, you know, it's a matter of whether you trust the States. You know, if you think the States aren't going to care for the poorest of the poor, and the States aren't going to care for their own citizens, well then I think you've got a right assumption.

I would like to—I mean, what State are we going to point our finger at and say, they don't care as much as we do, or they are not as smart as we are, or they can't do for their citizens, they can't monitor as well as we can monitor. You know, so I guess it's just a different premise that we are beginning from, but I have a great deal of confidence that the States are doing a lot better job than we are.

Chairman CUNNINGHAM. Thank you, and Mr. Greenwood from Pennsylvania, who I understand used to be a child abuse investigator. I'd be interested, Mr. Greenwood. I recognize your five minutes.

Mr. GREENWOOD. Thank you, that's true, Mr. Chairman, I used to be a case worker for the County Children and Youth Agency, and so was my wife, and that's where we met, and when I went to the legislature I was Chairman of the Children's Caucus and led a House/Senate investigation on the child welfare system, wrote the Family Preservation Act and so forth.

So, I guess if there's any area where I share your view about refederalizing the country, and I share your notion that I think there's a certain amount of arrogance that exists in Washington that says that Congress, and the advocates, and the lobbyists and the staff are so much smarter and so much compassionate here in Washington, that we've got to export some of that great wisdom and love out to the rest of the States where it doesn't exist. I think that is a false notion, but probably because of my background, and probably because of the—we're talking about little kids here, and kids in great danger of abuse and neglect, if there's any place for us to be very, very careful about this bet that we have, this assumption that we have that if we let the States protect their own children that they will, in fact, succeed, this is the place where we have to be very careful.

And, I notice in your testimony you didn't go all the way and say, look, let's take these child abuse programs, or child protection programs, and simply block grant the money to the States and give them no direction, you said, this is a quote from your testimony, "I believe we need to give the States some overall guidelines to follow in constructing their programs." I want to kind of pursue that point, because there's this one extreme of the Federal Government micromanaging everything, there's the other extreme of the Federal Government just calling out altogether and saying, we trust the States, they'll do a good job, and then maybe at least in this transitionary period there's this notion that, well, we have to give them some guidelines, and I'm not really sure, when I look at the Child Abuse Prevention and Treatment Act which provides grants to the States if they do certain—if they conduct their child welfare programs in certain ways, whether we are—how far we are across the line into micromanaging, and how far we need to retreat back to simply trusting them and giving them broad guidelines. It's kind of a philosophical question, but I'd like your thoughts.

Mr. HUTCHINSON. Well, I've wrestled with that also in a number of other areas in our Welfare Reform Bill is where do we draw the line on it. I think one of the good things that has happened in this Congress is that the governors, in a new way, have been brought into the dialogue, and a great deal of what kind of guidelines we provide, how far we go in managing or micromanaging, ought to come out of those discussions. What can the governors live with, recognizing that we do have a fiduciary responsibility, I think we've got a moral responsibility to make certain that those funds are used properly, and that there's accountability in the system.

I think when I talk about the denial of AFDC benefits for unwed moms under 18, some of the governors would say that's micromanaging, and I think that there's an ongoing dialogue with the governors to try to determine what they feel is an acceptable level of Federal involvement. I'm not sure I have the answer.

And, Jim, when I come with a case like Kendall Shay Moore, I mean I don't have the answers. I respect your background, I'm more interested in how we can help solve those kinds of problems, and how far we go, how far your subcommittee goes in laying down specific requirements, and guidelines and regulations in your reauthorizing legislation. I don't have the answer to that, but I think it's something that we can't ignore, because, truly, when you are talking about a five-month-old baby they are, apart from the unborn, they are the most vulnerable that exist.

Mr. GREENWOOD. If I may, we've pointed out these two problems with the system. One is sometimes there are, in the minds of some, overzealous investigations treading on the rights of parents, other times there seems to be an attitude that allows abuse and neglect to persist without adequate protection. What I think we need to try to discover here is, is the Federal Government responsible for that or is this just bad case workers out in the field that need better supervision by their municipal authorities, their local authorities, because I don't know whether the Federal Government is pushing investigators into overzealous actions. I'm not aware that that's the case, nor am I aware that there's anything that the Federal Government is doing that's preventing adequate investigation when there really is a problem, and we ought to work at it.

Mr. HUTCHINSON. I think that's a very valid point. I tried to concentrate my attention and my testimony upon criminal abuse, so we are not just dealing with human services departments, we're dealing with the whole judicial system, the criminal justice system, and that even in those cases we ought to be able to lay down some principle that if you've got criminal abuse in which there has been a conviction, that at that point custodial rights ought to be terminated, and I hope the subcommittee will look at that issue real closely.

Chairman CUNNINGHAM. Thank you.

I'd like to thank Mr. Sawyer from Ohio who is a Member of the full committee, he's not a Member of the subcommittee, but he has enough interest to sit in, and he's requested that he ask questions in the second panel. Tom, we'll grant that.

Mr. SAWYER. Mr. Chairman, thank you very much for the opportunity to participate in this way. I look forward to doing it often in the future.

Chairman CUNNINGHAM. Thank you for your interest.

Mr. Goodling is gone, Mr. Weldon from Florida is recognized—he just left, Mr. Gunderson, who has been probably a Member of this committee far more than most of us and is one of the experts, and we look forward to your questions.

Mr. GUNDERSON. Thank you very much, Mr. Chairman, and thank you, Tim, for your moving statement.

My question is if you have thought what those guidelines are that you believe we ought to include in the block grants. You articulated that you support the concept of merging the programs into a block grant, you want some kind of restrictions or guidelines from the Federal level onto the States. Have you been able at this point to develop or articulate what those specific measures would be that we ought to include in the restrictions?

Mr. HUTCHINSON. Well, in the Personal Responsibility Act, I think in the contract we lay down some. I mean, there are guidelines on what the States can do and what they can't do. Some of those are acceptable to the governors, some of them are not, and I think that there's still room for dialogue there. I mean, I like what we put in the Personal Responsibility Act. I think that that's a big step in the right direction, and whether it's the alien issue, or whether it's the very controversial denial of AFDC on the under 18, I think we have a good bill there that moves in the right direction.

Now, whether we micromanage, I think there's still some room for discussion there. I don't claim to be an expert on the child abuse prevention treatment, on your reauthorizing of that legislation. What I included in my testimony is my idea that we've got to address that issue of criminal abuse, and that in that area, at least, I would suggest that the guideline to the States is that where there's a criminal abuse conviction of a child, whether it's sexual abuse or physical abuse, that that parent not be allowed to have custody of the child that they have abused, that it's different than some of the other civil process issues and how that's dealt with, but when you get into the criminal area, in a case like Kendall Shay Moore, I don't think we ought to have a system that allows that child to go back into that kind of dangerous circumstance and situation, whenever a life is in danger.

Mr. GUNDERSON. I'm just trying to learn here, this is a difficult area, because we get caught between flexibility and the minimum standards per se, and I think I get caught in that same conflict that everyone else does.

Would you condition the receipt of State funds on the State enacting a law that says that no parent convicted of child abuse could receive—criminal child abuse, could continue custody of their child? I mean, does that—and, I'm just asking.

Mr. HUTCHINSON. Well, Steve, as much as that goes against my whole grain in wanting to get—as a former State legislator, that's exactly what I'm suggesting, that in that particular area we have a legitimate concern, sufficient for us to put that kind of guideline into the reauthorization.

Mr. GUNDERSON. How about, one of the toughest issues we face in all of the block grants under this committee's jurisdiction, is to what degree we allow the States to use the funds for administrative purposes and to what degree we require passthroughs. In most of our education programs we cap the State administrative expenses at 8 percent, the rest has got to go to the LEAs. Would you support a similar cap on State administrative expenses in the child care block grant with the bulk of the money going, say, to the county administering the programs?

Mr. HUTCHINSON. I certainly would.

Mr. GUNDERSON. Okay.

Are there any other similar kind of restrictions that you can articulate right now, I mean, frankly, it's very helpful when we look at this whole issue, you can play a bigger role in that area than some of the rest of us can when you say I'm for flexibility.

Mr. HUTCHINSON. Well really, Steve, I think I would have to defer to the wisdom of the committee on those kinds of guidelines.

I do think I'm very conscious, as a former State legislator, hearing them come into our judiciary committee and say you've got to pass this law because the Federal Government says you've got to pass this law, and if you don't you are not going to be eligible for Federal funds, and I think we have to avoid as much of that as possible.

So, we need to have a very high threshold on where we can legitimately impose a mandate.

Mr. GUNDERSON. I agree with what you are saying, and I plead with you to become an important player in this process, because I think you can bring some groups along in this area that, frankly, some of the rest of us can't.

Mr. HUTCHINSON. I'd welcome that opportunity.

Chairman CUNNINGHAM. Thank you.

Mr. Weldon from Florida. And, I'd remind Members that you don't have to ask a question, but if you want, Mr. Weldon, you have five minutes.

Mr. WELDON. Thank you, Mr. Chairman.

I have a couple of questions for you, and I'll try to get to them quickly here, recognizing the limited time. When I heard your testimony, I was, indeed, quite moved by it, but it seemed to me that the place to deal with this problem is in Arkansas. You described two contradicting sort of problems, cases where there is intervention where there shouldn't be intervention, and cases where there are children who need stronger governmental involvement.

And, this particular case of this little baby who was badly abused, while I recognize that this is a very tragic case, there's a common expression used in the law, I believe it goes, bad cases usually result in bad laws, and I'm curious to know what specific type of legislative action we could possibly take as a body to deal with this.

And then, I guess the most important question I would like you to address is, the problems that we face as a Nation in the area of family breakdown, increasing amounts of child abuse, appear to me at least to be social problems that are beyond the scope of government to effectively deal with, that the institution of government is capable of handling some problems effectively, but these are problems traditionally dealt with by communities, by churches, and the ability of the Federal Government to deal with these kind of mushrooming social problems is really quite limited, and I'd like you to comment on that as well.

Mr. HUTCHINSON. Okay.

First of all, on the State issue, the reason I had a meeting and brought State legislators in is because, yes, perhaps, it ought to be dealt with on a statewide level, and all I'm asking this subcommittee to do is, that as you look at reauthorization of our child abuse laws on the Federal level that you not ignore this side of it.

Yes, there are two extremes. There's over-intervention I think, and as a State legislator I had far more complaints of the Department of Human Services and what we call suspected child abuse organization scam of over-intervention, of coming in with unsubstantiated reports and intruding and breaking and violating parental rights.

But, there are also cases like Kendall Shay Moore, and I just hope that as you look at what Federal role there might be, and I don't have the answers, but as you look at reauthorizing that you not forget that there are circumstances and situations like this, and, perhaps, this is an area that the Federal Government can legitimately lay down a guideline, and I hope you'll at least consider that possibility.

On your point about this being beyond the scope of the Federal Government, and many of the family issues are, many of the issues of societal breakdown and family dissolution, high divorce and high teenage pregnancy, I would agree with you that I think those are beyond the scope and the capability of the Federal Government to solve, or the State government, or any other governmental entity.

What I think we can do is ensure that our public policies are not anti-family, that are not anti-values, and so often, I think, I believe, in the last generation we have tilted our laws against those things that we'd like to see promoted, perhaps, unwittingly, but that we can be certain, as we pass public policy in the next few months, that we are on the side of the family and on the side of wholesome values and not being a contributor to the breakdown that we see around us.

So, we may not be able to solve the problems, we don't have to exacerbate them.

Mr. WELDON. I yield back the balance of my time. Thank you.

Chairman CUNNINGHAM. I thank the gentleman from Florida.

Mr. Riggs from California has passed, and, Congressman Hutchinson, we'd like to thank you for your testimony, and we will start the second panel.

Mr. HUTCHINSON. Thank you.

Chairman CUNNINGHAM. Thank you, Tim.

As our panelists are coming up, I'd like to introduce them to save time. Ms. Cari Clark, Ms. Clark is a mother from Springfield, Virginia, and represents a sort of opinion that we should value most as we prepare to flesh out productive legislation. She has been affected first hand by the bills that past Congress's have written and offers true to life perspectives on some of the programs they have created, and we'd like to thank you, Ms. Clark, for attending.

Ms. Carol Hopkins, it's a pleasure to introduce you, and also I understand Gretchen, your daughter from New York, is here. And it's Gretchen's birthday today. Happy birthday, Gretchen and I understand, is this your mother and father behind you? So, thank you for coming. But, you come from America's finest city——

Ms. HOPKINS. Absolutely.

Chairman CUNNINGHAM. [continuing] the city where my wife and children every morning take a breath of beautiful air in San Diego, California. She's served as Deputy Foreman of a grand jury in San Diego which investigated some interesting issues involving child protective services. I welcome her to our national Capitol, and thank her and her family for coming. I know it's always nice when we are talking about child protective services to show family support, and that's what we call the real system.

Mr. David Wagner is the Director of Legal Policy at the Family Research Council here in Washington, DC. Mr. Wagner's organization has provided us with some very valuable information in the past and I'm sure will do so again. Thank you for your time, Mr. Wagner.

And, the final panelist on the panel, Ms. Anne Cohn Donnelly. Ms. Donnelly is from Chicago, Illinois. I was a teacher and a coach at Hinsdale, Illinois, Ms. Donnelly, where she is Executive Director of the National Committee To Prevent Child Abuse and will offer the views of that organization. And we thank you for appearing.

And, I would ask, again, the green light is four minutes, the gold light is one minute, and if the Members go beyond or ask questions when the red light comes on, if you would try and limit your response to one minute during the red light, and that way it will be fair to all the Members, and you actually get more questions that way.

And, we would like, if you could summarize your testimony, limit it to five minute presentations, and you will be allowed to enter your full text into the record.

And, with that, Ms. Cari Clark.

STATEMENT OF CARI CLARK

Ms. CLARK. Thank you.

I live in northern Virginia. My husband is an electrical engineer at the U.S. Patent and Trademark Office, and we have three children, Ethan who is 11, Julie is eight, and Meredith is nearly five. I'm a full-time mother at home, and I am proud of what I do.

I represent the vast majority of American parents who are dedicated to their families. They are committed to their children's welfare, and at any moment they can be drawn into a child protection system that has gone very wrong.

To be accused of child abuse or neglect is very different from being accused of any other kind of wrongdoing. In the court of public opinion, nurtured on horror stories and extreme examples of severe abuse, an allegation has become as good as a conviction, and no matter how unbelievable or trivial the charge, the accused's life is never the same afterward.

Unfortunately, the current situation that we have is that in many cases the system does not distinguish between children who are truly at risk and those who have not been harmed in any way. Of course, we need to be concerned about children who may be hurt or neglected, but we also need to recognize that many innocent families are suffering at the hands of a government bureaucracy which is encroaching more and more on their autonomy.

Most of us support the child abuse laws because we don't think that we will ever be accused. We are naturally horrified and repulsed that someone could hurt children, because the majority of us don't do such things and we never would, and nobody is "pro abuser."

But, I was unfairly accused. In April of 1993, a social worker appeared at my door and she asked to come in and talk to me regarding my treatment of two of my children. She told me that "someone in my neighborhood" had reported that I had "physically abused my son and had allowed my younger daughter, who was age three at the time, to run around the neighborhood" unsupervised.

I freely admitted having spanked my son near an open window the day before. He had been defiant and argumentative, and had resisted all milder forms of discipline.

And, I admitted to the second allegation as well. My daughter had fallen asleep in the car while we were driving home from an errand, and I needed to see a neighbor regarding a project we were working on. I didn't want to disturb my daughter who was afraid of the neighbor's dog, so I allowed her to finish her nap in the car. I had a full view, we live in a small townhouse neighborhood, a cul-de-sac, very quiet, and I had a full view of my house and my car from the neighbor's house. I was glancing out from time to time but did not observe my daughter exit the car. She went into our house, couldn't find me, came back outside and was crying. A third neighbor called over to where I was and alerted us to the situation, and I immediately ran to her. She was unhurt and she was crying, but she was utterly unhurt, and the entire duration of the episode was about 15 minutes.

Well, the social worker told me that she was going to go and talk to my son at the school, whether I allowed it or not, and, of course, I had no objection to that, but then she showed me the local so-called "guidelines for the supervision of children" which I had violated, and I had never seen them before.

Even though I was shaken and embarrassed, I naively thought that would be the end of the episode, because I, an individual with many friends and a wonderful family, well educated, busy with volunteer work, I couldn't be considered a child abuser or neglector!

Well, several weeks went by, and the social worker again appeared on my doorstep. During the course of this interview, she told me that my son had told her that he "babysat" his sisters.

I said, "What?" Evidently, my son told her that one time my husband and I had left our children alone on a Saturday morning to make the four-mile trip to drop his car off for repairs. My son was a Cub Scout at the time and he knew what to do in an emergency.

I had full confidence in him. Another neighbor knew they were home alone. We were gone for a total of a half hour.

Well, to make a long story short, the upshot of this was that the allegation of the spanking was dropped as unfounded immediately, that was not a founded cases, but the other two allegations, stemming from less than an hour of so-called "inadequate supervision" ended up being a finding that I had neglected my children and my name now is placed on a central registry in Richmond for a period of three years. During that time, I cannot do anything which would require a background check. In other words, I couldn't be a Brownie leader, a Cub Scout leader, a block parent, do any kind of work, perhaps, in a nursing home or as a teacher, because this list would have to be searched.

Of course, I appealed the decision, and the first level of appeal was called a "local conference," and I was told this was informal, and I got a chance to look at my record.

Now, this appeal was before another social worker who was a co-worker of the case worker who made the finding against me. The case worker had made several mistakes in her report, but what shocked me the most was information furnished by the person who had made the original complaint. She had stated that I taught parenting classes at a local hospital, and I had never done any such thing. She also had been contacted a second time by the case worker to provide collateral information about our leaving our children alone, and I might add at this time, too, that my husband was never questioned and he was never charged with anything, even though he was party to leaving the children alone on the one occasion.

But, this person, who still remains unknown to me, provided information to the social worker that my husband and I had left the children for an hour on a regular basis. This statement was totally false, and the social worker hadn't even mentioned it to me, nor had she questioned the reporting party, when, where and how she had obtained such information, or why she hadn't even previously reported it.

Furthermore, the case worker stated that clear and convincing evidence showed that I had abused or neglected my children, the evidence she cited were the original report, my son's statement, and my self-incrimination.

Of course, I had people that were my friends testifying on my behalf at this local conference, but it held no weight against the decision of the agency and it was upheld.

I chose to appeal again, and at this point I went to a State hearing officer and I got an attorney. We had a taped conference which lasted nearly two hours, but during this time my attorney obtained some fantastic information from the case worker. He presented a theoretical case.

Suppose a child age six or under is playing in a sandbox in the yard and you're watching from the window. The case worker answered that that would constitute inadequate supervision.

Now, if this sandbox standard were applied to everyone in the country, just about every parent in America would be guilty of child neglect.

The social worker also argued that since the possibility that my daughter could have been molested or abducted existed during the time she was outside alone, it constituted a critical or severe event which could result in minimal harm to her. But, the probability that such an event was extremely remote was dismissed.

The hearing officer did overturn the situation about leaving the children alone on Saturday morning, but upheld as "founded" the situation of me allowing my daughter to be outside for 15 minutes alone.

Now, I don't think that the neighbor who reported me had malicious intentions. She sought to "scare" some sense into me, perhaps, and thinking that a social worker would come to my door, shake her finger in my face and tell me not to ever do that again. But, those who report minor problems and offenses have no idea how intrusive and upsetting an investigation can be.

In Virginia, those accused of abuse or neglect of their own children are seldom criminally charged or investigated. I was told by the social worker that she was merely checking out a statement of concern.

I am not necessarily objecting to being investigated, but I do object to the way Social Services nitpicked until they found something that they could fit in, however flimsily, to their policy manual's broad and vague definition of neglect, even though my children were happy, healthy, unharmed and there was never any question that I posed a threat to them or anybody else.

I contend that this in no way resembles the due process that a murder suspect or even a petty thief gets. I was presumed guilty. I was not afforded the opportunity to face my accuser. My self-incrimination was used as evidence against me, and I was punished by my name being lumped in with others who have committed heinous crimes.

Citing CAPTA, government agents, under cover of immunity, are collecting whatever they want to call evidence and also acting as judge, jury and executioner of innocent parents in many cases.

We would not countenance this kind of strong arm in any other arena. Yet, when the magic words "child protection" are invoked, people seem to be willing to tattle on their neighbors and suspend constitutional rights. The Federal Government should not be in the business of mandating this behavior.

Believe me, I could keep you here all day long telling stories of cases like mine from all over the country.

Chairman CUNNINGHAM. If the gentlelady would wind up, please.

Ms. CLARK. That's fine, thank you.

Chairman CUNNINGHAM. Thank you.

[The prepared statement of Ms. Clark follows:]

Remarks to House Subcommittee on Children, Youth, and Families

January 31, 1995

Cari B. Clark

8072 Donegal Lane
Springfield, Virginia 22153
(703) 644-6754

Mrs. Clark was found to have neglected her daughter, age three, by violating the Fairfax County, Virginia "Guidelines for the Supervision of Children." She "inadequately supervised" her child for fifteen minutes. As a result, her name is listed in a central registry in Richmond for a three-year period. She contends that Social Services agencies are simultaneously under-intervening in serious cases and over-intervening in trivial cases. She also asserts that the way investigations are conducted and appeals heard is unconstitutional, lacking due process of law.

Standing Accused

My name is Cari Clark, and I live in Northern Virginia. I am a full-time mother at home. My husband is an electrical engineer for the US Patent and Trademark Office. We have three children: Ethan, eleven; Julie, eight; and Meredith, who is almost five.

I represent the vast majority of American parents who are dedicated to their families, are committed to their children's welfare, and who at any moment can be drawn into a child protection system that has gone very wrong.

The Mondale Act has spawned a system that in too many cases does not distinguish between children truly at risk and those who have not been harmed in any way. Of course, we need to be concerned about children who may be hurt or neglected. But we also need to recognize that many innocent families are suffering at the hands of a government bureaucracy which is encroaching more and more on their autonomy.

To be accused of child abuse or neglect is very different from being accused of any other wrongdoing. In the court of public opinion, nurtured on horror stories and extreme examples of severe abuse, an allegation has become as good as a conviction. No matter how unbelievable or trivial the charge, the accused's life is never the same.

Most of us support the child abuse laws because we don't think we will ever be accused. We are all naturally horrified and repulsed that someone could hurt children, because the majority of us don't do such things, and never would. And nobody is "pro-abuser."

But I was unfairly accused. In April, 1993, a Fairfax County social worker appeared at my door. She asked to come in and interview me regarding my treatment of two of my children.

She told me that "someone in my neighborhood" had reported that I had "physically abused [my] son" (age nine) and had allowed my younger daughter (age three) to "run around the neighborhood" unsupervised.

I freely admitted having spanked my son--near an open window--the day before. He had been defiant and argumentative, and had resisted all milder forms of discipline.

I admitted the second allegation as well. My daughter had fallen asleep in the car while we were driving home from an errand. I needed to see a neighbor regarding a project we were working on, and did not want to disturb my daughter, who was afraid of the neighbor's dog. Although I had a full view of my house and car from the neighbor's window, and had been glancing out from time to time, I did not see my child get out of the car. My daughter, unable to find me in the house, went outside and began crying. Another neighbor phoned to tell us. I immediately ran to my daughter, who was standing in front of our home. The amount of time involved was about fifteen minutes.

The social worker informed me that she would go to the school and talk to my son, whether I allowed it or not. Then she showed me the local "guidelines for the supervision of children" which I had violated. I had never seen them before.

Though shaken and embarrassed, I naively thought that would be the end of the story. Surely I, an individual with many friends and a wonderful family, well-educated, and busy with volunteer work, could not be considered a child abuser or neglector! And the social worker herself stated that my case would "probably be unfounded."

Several weeks went by, and the social worker again appeared on my doorstep. During the course of this interview, she informed me that my son had told her that he "babysat" his sisters.

"What?" I exclaimed. The social worker read from her notes that my son had said we had left the children alone while we went to a car repair shop. On one occasion, we had left the children to make the four-mile trip to drop my husband's car off for repairs. Since it was a Saturday morning, early, we did not think it would be unreasonable for the kids to stay home and watch TV while we were gone. I informed a neighbor that they would be home alone, and we were gone for no more than one-half hour.

I did not feel that the social worker, a very young woman, unmarried and childless, had the experience necessary to dictate to me how I should handle the discipline or supervision of my children. I objected to the terms "abuse" and "neglect" being applied to what I thought were reasonable actions.

Most of us were spanked as children, and even had our mouths washed out with soap. I was surprised to learn that these forms of discipline are considered abusive by today's standards.

The situation of the spanking was deemed "unfounded," but the allegations of failure to provide adequate supervision, stemming from two incidents adding up to less than an hour, were labeled "founded." My name would be added to the state Child Abuse and Neglect Information System (CANIS) for the next three years. This would effectively disallow me from doing volunteer or paid work with children, since my name would crop up if ever a background check were run on me.

I immediately made arrangements to appeal the decision. Two months later, I got an opportunity to see my file and attend a "local conference"--which meant that another social worker reviewed the case and heard my disputations of any inaccuracies in the file.

The caseworker had made several mistakes in her report, but what shocked me the

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most was information furnished by the person who had made the complaint. She had stated that I "taught parenting classes at a local hospital." I had never done any such thing. She also had been contacted a second time by the caseworker--to provide "collateral information" about our leaving the children alone--and she complied by stating that my husband and I "left the children for an hour" on a regular basis. This statement was totally false, and the social worker hadn't asked me about it, or questioned the reporting party when, where, and how she had obtained such information, or why she had not previously reported it.

Furthermore, the caseworker stated that "clear and convincing evidence" showed that I had "abused or neglected [my] children." The evidence she cited were the original report, my son's statement, and my self-incrimination.

Two of my shocked and sympathetic friends testified on my behalf, as well as my son's third-grade teacher. My husband made a statement also. None of these things seemed to hold any weight against the decision of the agency, and the finding of the social worker was upheld by her co-worker. I chose to appeal again.

I got an attorney, and we prepared the case. Five months later, we appeared before a state administrator--another young, unmarried woman. We had a taped conference which lasted nearly two hours. During this time, my attorney obtained some fantastic information from the caseworker. He presented a theoretical case:

Q: Suppose a child [age six or under] is playing in a sandbox in the yard, and you're watching from the window.

A: That would constitute inadequate supervision.

According to this "sandbox standard," nearly every parent in America is guilty of child neglect.

The social worker also argued that since the *possibility* that my daughter could have been molested or abducted existed during the time she was outside alone, it constituted a "critical or severe event" which "could result in minimal harm" to her. That the *probability* of such an occurrence was extremely remote was summarily dismissed.

The hearing officer did overturn the finding regarding the Saturday morning home-alone incident. But she upheld as "founded" my daughter's being outside unsupervised. My name remains on the CANIS until April of 1996.

I do not think the neighbor who reported me had malicious intentions. She sought to "scare" some sense into me, thinking that a social worker would come to my door, shake her finger in my face and tell me not to do it again. But those who report minor problems and offenses have no idea how intrusive and upsetting an investigation can be.

In Virginia, those accused of abuse or neglect of their own children are not criminally investigated or charged. I was told by the social worker that she was merely checking out a statement of concern.

Social workers lack the legal teeth and unbiased attitude to do fair and complete investigations. They search out only negative information to create the most damning case they can.

I could have appealed to the district court, but I chose not to pursue the case any further. Although this was probably not in my own best interest, it was in the best interest of my children and my neighbors. And my attorney advised me that when the state's position has been upheld twice, circuit court seldom overturned it.

I am not really objecting to having been investigated. But what I do object to is the way Social Services nitpicked until they found something that they could fit in, however flimsily, to their policy manual's broad and vague definition of neglect--even though my children were happy, healthy, unharmed, and there was never any question that I posed a threat to them or anybody else.

Citing CAPTA, government agents, under cover of immunity, are collecting whatever they want to call evidence, and acting as judge, jury, and executioner in these cases.

I contend that this in no way resembles the due process a murder suspect, or even a petty thief, gets. I was presumed guilty, I was not accorded the opportunity to face my accuser, my self-incrimination was used as evidence against me, and I was punished by my name being lumped in with others who have committed heinous crimes.

We would not countenance this kind of strong-arming in any other arena. Yet, when the magic words "child protection" are invoked, people seem to be willing to tattle on their neighbors and suspend constitutional rights. The federal government should not be in the business of mandating this behavior.

Believe me, I could keep you here for hours telling stories of cases like mine from all over the country. But the hysteria that has given rise to this over-zealous prosecution of non-crimes--while at the same time, the truly serious cases are getting buried--needs to be quelled. The system has run amok. At the very least, these programs should be carefully examined to ensure that all citizens--both innocent children and innocent adults--get the proper protections under the law.

Chairman CUNNINGHAM. Ms. Carol Hopkins, you are recognized for five minutes. We'll go ahead and use the light, five minutes flies by so quick, we'll give you an idea of the light, and I will be lenient with the time, but I would like, just in the fairness for the panel and the other witnesses, to try and limit to five minutes.

STATEMENT OF CAROL HOPKINS

Ms. HOPKINS. Good morning, Congressman Cunningham, and Congressman Kildee, and the rest of the panel.

I wasn't expecting it to be five minutes, so I'm going to have to race through and try and cover the most salient points I think in the testimony.

I am Carol Lamb Hopkins, and I'm honored to have been invited here today to testify on CAPTA. It is an area that I have studied and in which I have a great deal of interest over the past four years.

In 1991, I was appointed Deputy Foreman of the San Diego County Grand Jury. My background, I'm a school teacher, and a school administrator, and I did not have background in this particular area, I came onto the grand jury with no particular interest in this subject, other than that of any citizen concerned about children.

As soon as I came on the jury, we were given a complaint by Congressman Duncan Hunter that a number of his constituents had complained to him about problems within the juvenile dependency system over a period of years. I was aware that the county grand jury had studied this issue for several previous grand juries. In some cases, it had to do with an unnecessary child death, in some cases it had to do with constituent complaints of possible false allegations.

We began on day one of the grand jury to look into the problems of which the citizens were complaining, from both perspectives. By mid-October, we had over 150 complaints from the citizens of San Diego County. The vast majority of them were the kinds of complaints that I think have been referred to here today by Congressman Hutchinson, by other Members of Congress, of over-intervention by the system. However, we also had complaints of under-intervention, and we came to find that those had some validity as well.

In October of 1991, we received a complaint which would end up shaking San Diego County, literally to its core, it has ended up in the dismissal of a number of officials and the election of new officials and certain key positions.

A chief petty officer of 20 years, Jim Wade, father of a young eight-year old daughter, wrote a letter to the grand juror, a poignant four-page letter, that probably expressed all of the problems which you all will hear in the child protection system better than all of the experts and all of those of us who studied it. It was an articulate letter about his experience for two and a half years in the juvenile dependency system and the criminal system in San Diego County.

May 7 of 1989, he had put his daughter to bed, May 8 of 1989 she awoke in the morning, complained to her mother of pain upon urination. The father came home from work, where he was assigned on a carrier, and took his child to NAVCARE. The family had a history of urinary tract infections. The child had had long-time kidney infections herself. No one thought to check her. She was eight years old.

When they arrived at NAVCARE, they discovered that she had been brutally raped and sodomized. The doctor said, "What happened, Alicia," and she shook her shoulders and said, "I don't know."

The father, of course, and the mother were both stunned and shocked. They waited for CPS and the police to arrive. The child was taken to the Center for Child Protection in San Diego County, immediately removed from her parents, and questioned extensively by a doctor.

The child at that point, the doctor told her, "If you don't tell us what happened, you won't be able to go home," and the child gave a detailed description of exactly what happened, that she was taken out of her room at night, taken through a window, taken by a man in a car and raped and sodomized, that he took her back and put her back into her window and left her there and told her not to tell or she would be killed.

She got up the next morning and the rest we know. No one believed the child. Instead, the child was taken from her parents, her father didn't see her again for two and a half years. She was put with a foster care provider, and with a therapist, and with a social worker who believed absolutely that the father did it. The child was put in therapy twice a week for a year and a half, until finally, having been told every therapy session, every session with the social worker and with the foster care provider, that they knew the father did it, and she'd be able to go home if she would only tell, she finally said, "My dad raped me," at which point the father was criminally charged.

When the father was criminally charged, he finally had a defense attorney who asked for the clothing the child had been wearing when she was taken to NAVCARE. The police had told the family that there was no semen on the clothing, in fact, there was semen, in fact, that semen clearly indicated that the father did not commit the crime.

Nonetheless, for another year in the system, the system tried to terminate the parental rights of that family. The family of Jim Wade lived in Missouri. They mortgaged their family farm. The members of that community mortgaged their assets and sent the money to try and right the injustice that was being done.

As a grand jury, we subpoenaed every single record that was available in that case. We sought legal counsel from the Attorney General's office and we were provided legal counsel by the Attorney General's office, and we conducted hearings.

We discovered in that child's file hundreds of letters written by family members. The families had received bureaucratic responses, filed letters, nothing had ever been done, even when the semen clearly was not the father's, they refused to lift a no contact order with the father, they continued to pursue the termination of parental rights. It was not until the intervention of the grand jury that that procedure was stopped, and that was only days before the parental rights would be terminated.

We studied 450 cases before we were through. This case may be a nightmare case, and I particularly respect what Congressman Weldon said, that it is of bad cases that laws are made, on either side, either in Congressman Hutchinson's suggestion, or in the suggestion of Alicia Wade. Nonetheless, what we found is that there is total immunity for everything that happens.

And so, I come before you today to say that I believe you have an opportunity right now to turn things back to the States, and I support that for other reasons which are included in my written testimony, or you have the ability to turn those block grants back to the States, but with specific guidelines, which I believe should include qualified immunity, such as that enjoyed by police officers, guidelines that will help to remedy some of the very large number of criminal prosecutions which have already taken place in this country, and have been where people are languishing in prison over cases such as the Wade's that may never have happened at all.

Thank you very much for your attention.

Chairman CUNNINGHAM. Thank you.

[The prepared statement of Carol Hopkins follows:]

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TESTIMONY PREPARED FOR: The Subcommittee on Early Childhood, Youth, and Families
of the Committee on Economic and Educational Opportunities
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WITNESS BACKGROUND

I am Carol Lamb Hopkins and I am honored to have been invited here today to testify on the Child Abuse Prevention and Treatment Act. By profession I am a teacher and school administrator. In 1991 I was appointed Deputy Foreman of the San Diego County Grand Jury. Because of a number of constituent complaints forwarded by Congressman Duncan Hunter as well as complaints by hundreds of citizens, the Grand Jury undertook a review of the juvenile dependency system in San Diego County. Hearings were held and legal counsel was provided by California Attorney General, Dan Lungren.

A number of reports were issued. Those reports have been requested by hundreds of jurisdictions across the country as well as Holland, England, Sweden, Denmark, Canada and other countries. As a result of the expertise I acquired, I have been invited to testify several times before the California State Legislature and to serve on the advisory boards of the National Coalition for Child Protection Reform and the San Diego Legal Corp. I am co-founder of JUSTICE. I have never received any remuneration for any services or time expended.

CHILD PROTECTION OUT OF CONTROL

Elected officials across the country---local, state, and federal, as well as administrators of child protection agencies at every level, have heard for years from citizens that there are serious flaws in the current child welfare laws and child protection system. Until recently, this has been a "family secret" within the system. But the truth, in its stark reality, is coming to light.

Let's look back some 20 years ago when thalidomide was touted as a miracle drug. As we all remember, the miracle soon turned into a nightmare for children and their families. No one argued that its benefits outweighed its harm. It did not take tens of thousands of letters, years of complaints, and lawsuits to convince its manufacturer to yank it from the market and settle with the victims. Today, there is a new poison, posing as a cure--child abuse protection in its current form. The question remains why has our response to these two issues been so radically different.

In the last decade, the longest, most agonizingly flawed and most expensive criminal trials in the history of the Republic have been borne of a child abuse system gone mad. "Little Rascals" in Edenton, North Carolina, Kelly Michaels in New Jersey, McMartin in Los Angeles, "Country Walk" in Miami, Felix-Ontiveros in Nevada, and Dale Akiki in San Diego, to name just a few, have emerged as the Salem Witch Trials of the 20th Century. Today, the American people, your constituents, have paid millions for these and other false prosecutions and will pay millions more in civil judgments.

As Members of Congress, you might wonder how something as purposefully benign as the Mondale Act could engender the kind of outraged response you have received from your constituency.

- Across the country there is a crisis of confidence in the judicial system brought on by hundreds, if not thousands, of cases of alleged child abuse where the families insist on their innocence and protest their placement in the dependency system.

- Across the country there is deep and honest concern that there may be thousands of men and women falsely accused and scores falsely convicted of child molestation---incidents of which they are not only innocent, but which may never have happened at all.

- Across the country families are being accused by their grown children of sexual abuse which was "remembered" only after months of interventionist therapy, which is itself premised on theories as wild as alien abduction and in utero recollection.

- Across the country, the psychotherapeutic community is held in increasing contempt as it indulges in therapeutic practices which have no basis in science and result in recall of past lives, infant and in utero memories, alien abduction, recall of years of previously "repressed" sexual abuse by parents, and last but not least, a psychotherapy practiced on very young children which amounts to little more than exposure to the pornographic fantasies of delusional therapists.

- And finally, across the country there are calls to terminate child protective services and place child abuse investigations back into the hands of law enforcement.

SAN DIEGO GRAND JURY INQUIRIES

California is fortunate and almost unique in that it has powerful County Grand Juries which serve as civil watchdogs of local government agencies. At the risk of vastly over-simplifying the role of County Grand Juries in California, in essence they are charged to investigate complaints brought by citizens concerning local government agencies and to make recommendations to governing boards for changes which may remedy system defects.

Problems within the juvenile dependency system of San Diego County have produced scores of complaints for a number of years. Some saw the Grand Jury's inquires as swings of the pendulum--- with an investigation one year centering on an unnecessary child death, and the next on a high profile false allegation of child abuse.

In fact, problems at both ends of the swing of the pendulum reflect the randomness of the defects in the child welfare system. As noted in SD County Grand Jury Report # 2, "Families in Crisis",

> **"In too many cases, Child Protection Services cannot distinguish real abuse from fabrication, abuse from neglect, and neglect from poverty or cultural differences. Each of these requires a different response; yet the current system all too frequently fails to differentiate." (1991-92 SD Cty GJ Report # 2, p.4)**

The San Diego County Board of Supervisors implemented many of the recommendations made by the 1991-92 Grand Jury. Unfortunately, the most important changes could not be made. Why? Because state statutes dictated by the Mondale Act, to which most funding is tied, actually mandated upon the states some of the most fundamentally flawed aspects of the system which produced these catastrophes and abuses.

For example, the Grand Jury found that absolute immunity for child abuse reporters and workers and mandated child abuse reporting, as mandated by the Mondale Act, provoked and shielded many who adhered to an agenda which had more to do with social outlook and personal payback, than true child protection. At the same time, the Mondale Act's failure to require standards of professionalism opened the door to quack theories of cause and treatment which produced false accusations of abuse and made victims of hundreds of otherwise innocent children and adults.

In 1993-94, the San Diego County Grand Jury once again was required to investigate problems within the child abuse system and found that various provisions of the Mondale Act had produced a "child abuse industry" which was inherently defective and often served to perpetuate frivolous and malicious accusations of abuse rather than to truly protect children.

The Grand Jury concluded that there is a "growing tendency to use the Child Abuse and Prevention Act as a powerful weapon in the hands of those who misuse it for vengeful or malicious purposes, or to make public accusations." This observation reflected on the various components of the "child abuse industry", including social workers, doctors, therapists and prosecutors. (1993-94 SD Cty GJ Report, "Analysis of Child Molestation Issues", p. 27-30)

MONDALE ACT ABUSES

I think we all agree that the Child Abuse and Treatment Act (Mondale) was passed in 1974 with the best of intentions. The Act was passed after the Congress was awakened to the terrible reality of actual child abuse. In fact, while there was some exaggeration in that testimony, the light it shed on the reality of child abuse was long overdue. That said, Supreme Court Justice Louis Brandeis warned long ago of the danger of well- intended but misguided zealotry, writing that "experience should teach us most to be on our guard to protect liberty when the government's purposes are beneficent... The greatest dangers to liberty lurk in insidious encroachments by men of zeal, well- meaning but without understanding" *(Olmstead v. United States (1928), p. 479)*

Sadly, the child abuse industry has become captive to a philosophy of child welfare which has led to zealotry. The elitist tyranny of this closed community has not permitted free expression of criticism which could lead to healthy adaptation. Indeed, I fully expect that before this debate is concluded, you will hear my testimony today vilified as a defense of child molesters. Yet, as the abuses have grown more serious and widespread, and the critics increase in number and volume, the child abuse industry has labeled this legitimate concern the "backlash". There has been no dialogue.

I speak of this from first hand experience. When my Grand Jury began its investigation, we were immediately cautioned not to talk to certain groups because they were "molesters in denial." We were repeatedly warned about certain authors, experts, etc. We were told that if we wrote a report critical of the system, "children would die."

With some reservation, we chose not to heed these cautions. We spoke to every group we could find on both sides of the issues; took testimony from hundreds of professionals; and, read vast amounts of materials by those who fancied themselves as "the child protectors", as well as detractors of the existing system. We issued numerous reports which we believe stand even today as balanced and reflective of necessary change.

My gravest concern for the existing system lies in its inability to recognize the need for change and reform. Reasonable, thoughtful, critics have been silenced by intimidation, by almost criminal libel, personal attack, and false characterization of their criticism. There were many who expressed deep concern that the vast numbers of wrongful cases would ultimately result in a system in which the public no longer had confidence, leading to the dismantling of the child protection system. Those who spoke out were afraid that real child abuse and molest would be discounted, and to some extent, that is exactly where we find ourselves today.

It would be easy to characterize the problem as liberal against conservative, but the sides in this issue defy simple political or ideological definitions. Everyone is "for" protecting children and "against" child abuse. The defining lines center around the safeguards against injustices in the system.

It was chilling to hear, as we too often did, child protection advocates acknowledge the fact that there were innocent people in jail and innocent families destroyed because of mistakes being made in the application of child protection laws. It was when they went on to say that this was a small price to pay for the protection of so many children, that we on the Grand Jury realized that these people had lost sight of the most basic principals of American justice -- that we seek first to protect the innocent from the abuse of power by the state. Their willing acceptance of this condition and their lack of effort to improve the system went beyond chilling. It was frightening to realize that numbers of these people were more concerned with advancing their own agenda, preserving their own absolute power and insulating their organizations from public criticism than they were with making the child protection system work better.

CORRECTING THE MONDALE ACT

At this juncture, this Committee has three options:

(1) It can simply refund the Mondale Act and perpetuate the abuses which have arisen in the wake of the original enactment;

(2) It can let the Mondale Act sunset, thereby bankrupting truly needed anti-child abuse programs and, just as tragically, leave in place state statutes which the Act originally mandated and which have since been the cause of wholesale abuses; or

(3) It can continue to assist the states in promoting child welfare conditioned upon eliminating the causes of abuse within the system and implementing system wide guidelines.

The first and most important change in CAPTA must be the requirement that states modify total immunity of those involved in child abuse investigations to the qualified immunity enjoyed by police officers.

As a Grand Jury we found that those people charged with child protection had been given more power than they could handle and in some ways were drunk with that power. During poignant testimony, a witness before the Grand Jury, the chief counsel for a state appellate court, as well as an accused grandfather, told us, "Power corrupts. Absolute power corrupts absolutely. Absolute immunity is absolute power." Every social worker in California has absolute power. ("Families in Crisis", p.22)

Many child protection workers and others in the child protection field have lost sight of their real mission, which is to protect each child, sibling and parent, in a word, to protect the "family". They have lost sight of the need to protect each family in America from the destruction which comes from a wrongful accusation. Power was given to people incompetent and undisciplined to make the level of decisions necessary with such important concerns in the balance. A child protection worker, a social worker, or an investigator found it easier to report or to make an accusation of child abuse, despite the lack of evidence to support it, than to face criticism from colleagues for supposedly failing to protect a child and giving aid and comfort to a possible perpetrator.

In addition, the very people designed to be the gatekeepers of the system are frequently poorly trained to distinguish legitimate from false cases. A psychiatrist treating a highly delusional patient who claim a child molest must report that patient's allegations or be guilty of a felony. The Grand Jury investigated several cases where that exact scenario resulted in years of invasive and destructive government intervention in innocent families.

It is not surprising then that friends have told me, fathers have told me, that they are afraid to bathe their young children. It is tragic, but true, that fellow teachers have told me, school and club volunteers have told me, that they are afraid to pick up a crying child or to provide a hug.

Fear of the child protection system now infects all of American society. It is of grave concern to law abiding Americans who care deeply about their society. It permeates the lives of your constituents, because the Mondale Act has too frequently placed lethal weapons in the hands of poorly trained zealots, who mean well, but have done great harm.

It must also be mentioned that the system seems to be most askew in the area of child sexual abuse. While sexual abuse allegations constitute but 15% of the child abuse-neglect case load nationally, these cases, with their inherent appeal to the psychotherapeutic community, absorb a vastly disproportionate share of the resources. It is also the arena of most criticism and most emotionalism on both sides.

The 1991-92 San Diego County Grand Jury spent a great deal of time investigating sexual molest and assault issues. We were particularly concerned about molest allegations made during custody disputes and the "satanic ritual abuse" day care cases. Report No.8, "Sexual Assault, Molest, and Abuse Issues", documents the disturbing findings we made. In the area of molest allegations during custody disputes there are three case studies reported in some detail. Each case is a compelling story and illustrates the need for a better investigative procedure for these types of cases prior to a child losing contact with the accused parent. (1991-92 SD Cty GJ Report #8, p 5-10.)

The American Professional Society on the Abuse of Children (APSAC), the largest professional society devoted to this subject, holds its annual conference in San Diego each January. I have attended for the past four years either as a Grand Juror or as an observer. The Grand Jury was particularly interested in this conference because of witness accounts that this conference was responsible for "poisoning the stream" at both the local and national levels. Of interest to this Committee is that without question untold thousands of Mondale Act dollars have been expended supporting this annual conference.

Neglect and poverty are responsible for the vast majority of child abuse allegations, but those areas are barely addressed at this conference. Those issues don't respond to the psychotherapeutic paradigm this group has adopted. This model of social work, with its obsessive notions of child sexuality which would chagrin Freud, himself, has been primarily responsible for the influx of interventionist therapists into the field. In fact, for many a Masters in Social Work (MSW) is just a short cut to becoming a licensed therapist.

Each year I have studied the program of this conference and found that it is dominated by workshops and lectures on sexual abuse, both common and bizarre, with a sprinkling of sessions on physical abuse, and hardly a mention of cultural or economic issues in child abuse and neglect.

In 1992 I attended a session on satanic ritual abuse where self- claimed survivors, women in their 30's, using only their first names, stood up and told about their experiences as baby breeders, high priestesses, subjects of molest in utero, etc. This would have been only sad, were it not for the several hundred social workers, therapists, police officers, and even prosecutors and judges in the audience who applauded each revelation. These "professionals" returned from San Diego believing, if they didn't already, that satanic ritual abuse was an "epidemic" and part of an intra-generational conspiracy. This hysteria continues despite the inability of the FBI to find any solid evidence of organized satanic ritual abuse. Special Agent Ken Lanning of the FBI who has spent years searching for organized satanic ritual abuse has stated in numerous forums that he has found no evidence of the crimes described by these "survivors" or the children in the day care cases. He can trace nearly every allegation of ritual abuse to either a conference a therapist has attended, or a television talk shop some suggestible person has viewed. In regard to these comments, I urge you to read the San Diego County Grand Jury findings on the issue of Satanic Ritual Abuse found in Report #8.

Finally, the San Diego County Grand Jury found that there were serious inherent problems within the system which inevitably led to results contrary to the best interests of children and families. To once again quote from "Families in Crisis":

> **"As a general matter, more checks and balances are needed in the system. The Jury asked almost every professional who testified what they would do to improve the condition of the Juvenile Dependency System if they had the power. While there were many different views, surprisingly there was an almost unanimous consensus among attorneys, therapists, physicians, judges, law enforcement, social workers, and clients that there needs to be a more effective accountability link between prescribed standards and practice and between mandated intervention services and appropriations. Therefore, there is a demand for a more effective system of checks and balances.**

Those checks and balances must include the following:

- **Absolute immunity for child abuse reporters and workers must be reduced to the qualified, good faith immunity extended to law enforcement; (please see attached letter to Ca State Legislature)**

- **Interviews and interrogations of children and witnesses must be tape recorded;**

- **Mandated reporters must be required to report their assessment of the truth of reported abuse;**

- **Training must be made available to all mandated reporters which includes the importance of reporting real abuse, the effects on families of false allegations and information on developmentally appropriate behaviors and relevant scientific research;**

- **A bipartisan commission must be established to study and report on model rules of evidence and procedure designed to insure that children are protected, and that both dependency and criminal cases involving abuse produce truthful findings, thereby protecting innocent parents and accused.**

- **States must adopt these model rules of evidence and procedure to receive federal funding;**

- **A bipartisan commission must be established to study and report on guidelines to remedy cases where convictions or child removals have been based on expert testimony which has subsequently been discredited or on the testimony of children or adults who have been contaminated by coercive questioning or therapy.**

I have recently had the opportunity to review some of the testimony presented over the years in support of CAPTA and some of the other related legislation. I was horrified to read some of the gross exaggerations and even delusional material which was presented to previous congresses on this issue by proclaimed experts in the field. The very people who testified have been at the heart of some of the worst cases in the country and been responsible for some of the most hideous abuses.

SAVING THE CHILD PROTECTION SYSTEM

As a nation we care deeply about our children. We have been generous in trying to help solve a terrible social problem. We will, I know, continue to be generous. Every time a child dies of abuse, it tears at our hearts. But, there is simply no way to absolutely assure that this will not happen in our troubled times -- despite the fact that it is the ideal for which we all hope. We will not achieve that ideal by the rampant social engineering and massive therapeutic intervention in which we have indulged. We will come closer by providing a society which is economically and spiritually healthier for our children and for their families.

I come before you today in a unique role. I am a citizen who was appointed to a County Grand Jury, nothing more. I have no vested interest in the system other than as a citizen. I have most fortunately not ever been accused. But, as a Grand Juror I learned that my good fortune in not being accused was only that, good fortune. By the end of our tenure as Grand Jurors none of us had any confidence that the system as it existed could distinguish real and fabricated abuse. Accusations were pursued arbitrarily and capriciously. This is intolerable.

I have agonized deeply over the testimony I have given here today. No one enjoys the role of Jeremiah, but I want desperately to convince this committee that we are in a national crisis of confidence which could easily lead to the disintegration of the entire child welfare system; that would be tragic. In the nearly literal sense, this would be throwing the baby out with the bath water. The Congress needs to most carefully fix CAPTA, not dismantle it. The Congress also needs to consider the lesson of CAPTA; there is wisdom in our laws and the protections guaranteed by our Constitution. When we tamper with those protections, no matter how well intentioned we are, we risk disaster.

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Chairman CUNNINGHAM. Mr. David Wagner.

DAVID WAGNER, DIRECTOR OF LEGAL POLICY, FAMILY RESEARCH COUNCIL, WASHINGTON, DC

Mr. WAGNER. Thank you, Mr. Chairman.

I would like to read in excerpted fashion from my written testimony, in such a way as to, perhaps, provide some——

Chairman CUNNINGHAM. If you could hold the mike a little closer to you there.

Mr. WAGNER. Are we doing better now—in such a way as to provide some theoretical underpinning for what Ms. Hopkins has narrated.

For more than 20 years, the task of detecting and preventing child abuse and neglect has been confided primarily to the therapeutic sector of American government. Now, by this I mean that sector of government that relies on social service casework, backed up by State power, and free from most of the constitutional restraints that bind the criminal justice system. The theory behind this system is that social pathologies can be erased through intensive mandatory therapy administered to aberrant citizens by government agents trained in the discipline of social work.

The system has failed to prevent the rates of abuse and neglect from increasing, and at the same time, it has imposed on rank-and-file American families something approaching a social-service police state, causing parents to become justifiably alarmed every time their child cries in public, or speaks to a school counselor, or requires a visit to the emergency room, lest someone suspect the parents have committed abuse and report them, leading to results such as has been described by Ms. Clark and Ms. Hopkins.

Now, while my testimony today focuses primarily on this problem of excessive surveillance and unwanted coercion, I want to affirm that this is not the only problem in our child protective system. There are many instances of under-intervention as well as over-intervention, and I hope later on to be able to say something about those. There are children who are in need of help who are falling through the cracks, just as there are innocent parents being put through investigative ordeals.

Nonetheless, in line with the principles of the Contract With America, including the shift of power from Washington to the States, and from government to individuals and private associations, I believe Congress should cut back on the therapeutic establishment's hotline to the Treasury through the Mondale Act, CAPTA, and restore the authority of the States to deal with child abuse and neglect in light of local needs and wishes.

The child protective system is a web of State programs that receive Federal funding under the Mondale Act, and many States further subdivide on a county-by-county basis. All in all, the system conduces towards the shifting of blame up or down the line.

But, more serious is the absence of due process protections for persons accused of what is, after all, heinous conduct. Child protection is, perhaps, the last refuge of what we may call the "therapeutic trade-off." By this I mean the notion that the suspension of constitutional rights is appropriate in systems that administer therapy rather than punishment. The accused party is supposedly better off, because he or she will be treated rather than punished, and, furthermore, the government agency, in order to deal appropriately with each defendant, or "client," as they are called in therapeutic discourse, is said to need the flexibility, that is, the government agency needs the flexibility that comes with not having to observe a lot of procedural rights, meet a high burden of proof, and so forth. Now, as you know, this theory was the one that underlaid the juvenile courts of this Nation until a landmark case called In re Gault, which rejected the therapeutic trade-off in juvenile cases and restored a measure of traditional defendant's rights to young people accused of serious misconduct. But, that decision does not apply to child protective services, which, consequently, remain a maze of unpleasant surprises for parents accused of misconduct towards their children.

Americans have a deeply ingrained belief that rationality and due process of law will govern any encounter they may have with State power, but this expectation is disappointed when a parent or guardian comes face to face with a therapeutic inquiry into a child abuse accusation. They find, first of all, that although an accusation of grave misconduct has been doubled against them, the government employee investigating it in many cases does not think in terms such as guilt and innocence. Those are legal terms, and this is therapy, not law. From the therapeutic point of view, admitting your problem is always good, in fact, it's the indispensable first step toward recovery, and so details such as whether or not the accusation is factually true tend to get dismissed as petty legalism, or worse, as mere stratagems by which abusers attempt to keep themselves in denial. And, in my written testimony are some dialogue from an actual case which establishes that.

Furthermore, the Fifth Amendment rights do not apply, there is no right against self-incrimination, there is no Sixth Amendment right to counsel, no Sixth Amendment right to confront your accuser, and so forth. Again, the rationalization is the therapeutic trade-off.

Some parents believe that if they can show that they are active in church or civic affairs, this will show that they are well adjusted and let them ward off unneeded intervention. But, in fact, the therapeutic discourse has always been at odds with local values. Professor Andrew Polsky, in his magisterial history of the therapeutic ideology, notes: "Social personnel made no attempt to appreciate community opinion. Local actors were hopelessly primitive in their outlook, it was felt, and their intent could only be evil. When the stakes in a dispute are raised to the level of a moral crusade, it is hard merely to understand the opposing camp's perspective, much less find some common ground. Local officials and the public at large reciprocated the disdain."

Child abuse is a crime, and that is all the more reason to stop treating it merely as a disease. The terrible irony of a system that is funded by the Mondale Act is that treating child abuse as a disease, treating it "non-punitively," as therapeutic jargon has it, has failed twice over, and I'll just wrap this up very quickly, Mr. Chairman. It was supposed to stem the tide of child abuse, but that tide is increased. And, it was supposed to augment human dignity by treating alleged abusers with kindness, but the system's idea of kindness has turned out in too many cases to mean star-chamber proceedings by government therapists, inscription of parents in government blacklists, and children lost in foster-care limbo while their parents exhaust their savings trying to get them back.

The Mondale Act is no longer the type of social experiment that deserves Federal funding. Congress should, for the most part, turn it back to the States with block grants, an emphasis on criminal law enforcement, and allow the States to function as laboratories of democracy as they experiment with different approaches, in accordance with local needs and values to protect children.

Thank you.

Chairman CUNNINGHAM. Thank you.

[The prepared statement of David Wagner follows:]

Family Research Council
Gary L. Bauer, President

TESTIMONY ON CHILD PROTECTION REFORM

BEFORE THE

HOUSE ECONOMIC AND EDUCATIONAL

OPPORTUNITY COMMITTEE

David M. Wagner, Esq.,
Director of Legal Policy,
Family Research Council

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They have given us into the hand of new unhappy lords,
Lords without anger and honor, who dare not carry their swords.
They fight by shuffling papers; they have bright dead alien eyes;
They look on our love and laughter as a tired man looks at flies.
And the load of their loveless pity is worse than the ancient wrongs.
Their doors are shut in evening, and they know no songs.

-- G.K. Chesterton

Thank you, Mr. Chairman.

I am David Wagner, and I am Director of Legal Policy at the Family Research Council. The Council is a research and advocacy organization that seeks to explain and promote the family as an irreplaceable social institution. I have had child protection issues on my research agenda for almost ten years, going back to my days as an editorial writer for *The Washington Times*. I have intensified this work in the past four years, and have been gratified to see that the grave backfiring of our present child protection system has recently become an item of intense media interest -- and, thanks to those here, of congressional interest as well.

The problems of child abuse and child neglect haunt the American conscience. They challenge us to come up with sound preventive strategies. From time to time, they challenge us to take a close look at the strategies we have tried heretofore, and if necessary, to chart a changed course.

For more than twenty years, the task of detecting and preventing child abuse and neglect has been confided to the *therapeutic sector* of American government. By this I mean, the sector that relies on social service casework, backed up by state power, and free from most of the constitutional restraints that bind the criminal justice system. The theory behind this system is that social pathologies can be erased through intensive mandatory therapy administered to aberrant citizens by government agents trained in the discipline of social work.

This experiment has been, on the whole, a failure. It has failed to prevent the rates of abuse and neglect from increasing, and at the same time, it has imposed on rank-and-file American families something approaching a social-service police state, causing parents to become justifiably alarmed every time their child cries in public, or speaks to a school counselor, or requires a visit to the emergency room, lest someone suspect the parents of abuse and report them, leading to an intrusive government investigation of their home life, and possibly to removal of their children.

While my testimony today focuses on the problem of excessive surveillance and unwarranted coercion by child welfare authorities, this is not the only problem in our child protective system. There are many instances of *under*-intervention as well as *over*-intervention. There are children in need of help who are falling through the cracks, just as there are innocent parents being put through investigative ordeals. The system is misfiring in both directions. Or worse, some say: activists have contacted me with allegations that the existing child protection apparatus not only slanders innocent parents but simultaneously covers up for actual abusers.

The problem of under-intervention -- of the system failing to protect children who are in need of protection -- is well-known to lawmakers: it is the classic basis on which the therapeutic establishment demands and gets increased funding, increased hiring authority, and increased power over citizens' lives. I suggest today, however, that more of the same is not enough, and in fact is actually harmful.

In line with the principles of the Contract with America -- including the shift of power from Washington to the states, and from government to individuals and private associations -- Congress should cut way back on the therapeutic establishment's pipeline to the Treasury, and restore the authority of the states to deal with child abuse and neglect in light of local needs and local values.

As it currently functions, the child protective system is a web of state programs receiving federal funding, and conforming to federal guidelines, as set forth in the Mondale Act, also known as the Child Abuse Prevention and Treatment Act of 1974. Many states further subdivide the system on a county-by-county-basis. The entire system is tailor-made for the shifting of blame up or down the line: local officials, when criticized, claim merely to be following state law; federal officials can re-direct complaints back down to the state or local level; state officials perhaps get the best deal, because they can shift blame up *or* down the line.

More serious, however, is the absence of due process protections for persons accused of what is, after all, heinous conduct. Child protection is perhaps the last refuge of the "therapeutic trade-off." By this I mean the notion that the suspension of constitutional rights is appropriate in systems that administer therapy rather than punishment. The accused party is supposedly better off, because he or she will be treated rather than punished; furthermore, the government agency, in order to deal appropriately with each defendant -- or "client," as they are called in therapeutic discourse -- is said to need the flexibility that comes with not having to observe procedural rights, meet a high burden of proof, and so forth. As you know, this was the theory that underlay the juvenile courts of this nation, beginning in the early years of this century. But in a landmark decision called *In re Gault*, 387 U.S. 1 (1967), the Supreme Court rejected the therapeutic trade-off and restored a measure of traditional defendants' rights to young people accused of serious misconduct.

However, the *Gault* doctrine was confined to juvenile crime cases; it did not apply to the child protection system, which, consequently, remains a maze of unpleasant surprises for parents accused of misconduct toward their children.

American citizens have a deeply ingrained belief that rationality and due process of law will govern any encounter they may have with state power. But this expectation is utterly disappointed when a parent or guardian comes face to face with a therapeutic inquiry into a child abuse accusation. They find, first of all, that although an accusation of grave misconduct has been levelled against them, the government employee investigating it does not think in such terms as "guilt" and "innocence." Those are legal terms, and this is therapy, not law. From the therapeutic point of view, admitting your problem is always good -- in fact, it is the indispensable first step toward recovery -- and so details such as whether or not the accusation is factually *true* tend to get dismissed as petty legalism, or worse, as mere stratagems by which abusers attempt to keep themselves "in denial."

To illustrate, here is an actual dialogue between a child protective caseworker and the wife of an accused man, as told to reporter and journalism professor Richard Wexler:

> **Caseworker:** We know your husband is guilty; you've got to force him into admitting it.
> **Wife:** How do you know he is guilty?
> **Caseworker:** We know he's guilty because he says he's innocent. Guilty people always say they're innocent.
> **Wife:** What do innocent people say?
> **Caseworker:** We're not in the business of guilt or innocence, we're in the business of putting families back together.
> **Wife:** So why not do that with us?
> **Caseworker:** Because Clark [the husband] won't admit he's guilty.

There's a great deal more that could be said about the lack of due process in the system. For example, the Fifth Amendment does not apply to child abuse investigations by social service personnel. Consequently, what you say to a social worker -- while it cannot be used against you in a *criminal* child abuse prosecution -- can, and reliably will, be used against you in a decision as to whether or not your name will be entered in a state-maintained computer registry of child abusers, or as to whether or not your children will be taken from you. The right to confront your accuser and the right to counsel are also inapplicable.

The rationalization for this lack of due process is the "therapeutic trade-off" that I mentioned earlier: since this is not the criminal justice system, you supposedly do not need the procedural protections that criminal defendants need. But what was true of the juvenile courts in cases like *Gault* is true in child protection as well: the therapeutic trade-off turns out in practice to be a legal fiction that exposes citizens to state power every bit as extensive and as arbitrary as that which alarmed the framers of the Bill of Rights.

Some people have a false sense of immunity, because they don't abuse their children, and because they are not welfare clients. Both these grounds of security are illusory. Interpretation of the key terms "abuse" and "neglect" is left to social service personnel, on the basis of their presumed experience, which often does *not* include having children of their own. As for not being on welfare, please understand that the child protection system is *not* a subsection of any welfare program. It covers *everybody*. There are no presumptive exemptions. It is true that impoverished neighborhoods figure heavily in the child protection caseload. But the scope of child protective services is not confined to the scope of welfare. On the contrary, child protective services are, in part, a device for widening the therapeutic sector's sphere of action.

Sometimes parents believe that if they can show that they are active in church or civic affairs, this will prove that they are well-adjusted, and will help them ward off unneeded and unwanted therapeutic intervention by the government. But this is to misunderstand the nature of the therapeutic movement. The movement for the therapeutic state has always regarded local values as obstacles, rather than as resources. Hunter College political scientist Andrew Polsky, in his magisterial history of the therapeutic ideology, *The Rise of the Therapeutic State*, notes:

> "Social personnel made no attempt to appreciate community opinion. Local actors were hopelessly primitive in their outlook, it was felt, and their intent could only be evil. When the stakes in a dispute are raised to the level of a moral crusade, it is hard merely to understand the opposing camp's perspective,

> much less find some common ground. Local officials and the public at large reciprocated the disdain."

(Polsky, *The Rise of the Therapeutic State*, Princeton University Press, 1991, pp. 116-117.) Social service investigators will measure you by their own standards of appropriate conduct, not by community standards.

It may -- it *should* -- seem strange that such broad discretionary power over intimate matters of home life has been vested in government agencies in a nation supposedly committed to freedom, privacy, and the rule of law. But not only has this delegation of power occurred -- it has been federally funded and regulated since 1974.

Social workers as a group have been taking a beating in my remarks today, so let me clarify. There are many dedicated, over-worked, underpaid social workers out there doing their best to help children *and* parents, free from bizarre theories as to the definition of abuse, and sensitive to family autonomy. They are often critical of the system they are part of. In many instances, their testimony has been vital to helping critical analysts of the system to understand its workings.

Child abuse and neglect are not problems that society can simply ignore, simply because our present system for dealing with them has backfired so badly. This must be stressed, because one of the therapeutic establishment's standard ploys for neutralizing political resistance is to characterize its critics as being "pro-abuser." While the McCarthyite nature of this tactic is too obvious to require comment, I would like to stress that the Family Research Council is actively opposed to any notion of children as mere chattels in the hands of adults.. To this end, we have been active in legislative and litigative efforts to curb child pornography, which is a major contributing factor in the sexual exploitation of children.

Child abuse is a crime; all the more reason to stop treating it merely as a disease. The terrible irony of the system that is funded by the Mondale Act is that treating child abuse as a disease -- treating it "non-punitively," as therapeutic jargon has it -- has failed twice over. It was supposed to stem the tide of child abuse -- but that tide has increased. And it was supposed to augment human dignity by treating alleged abusers with kindness -- but the system's idea of kindness has turned out to mean star-chamber proceedings by government therapists, inscription of parents in government blacklists, and children lost in foster-care limbo while their parents exhaust their savings trying to get them back. In the words of G.K. Chesterton, "The load of their loveless pity is worse than the ancient wrongs."

The Mondale Act is no longer the type of social experiment that deserves federal funding, least of all in a time of general budget austerity and government downsizing. It is time, instead, to usher in a new era of grass-roots-level, voluntary, community-responsive child protection. Congress can take the first step by allowing the Mondale Act to expire when its current authorization runs out, and to substitute for it a block grant that will ease the

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transition away from federal funding and empower states to act as "laboratories of democracy" as they experiment with different approaches, in accordance with local needs and local values, to protect children.

Thank you.

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Chairman CUNNINGHAM. Ms. Anne Cohn Donnelly.

STATEMENT OF ANNE COHN DONNELLY, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE TO PREVENT CHILD ABUSE

Ms. DONNELLY. Thank you, Mr. Chairman, Members of the committee. It's my pleasure to appear before you today.

My name is Anne Cohn Connelly. I'm the Executive Director of the National Committee to Prevent Child Abuse, a private, volunteer-based organization headquartered in Chicago, with chapters in all 50 States.

In the early 1970s, I received a doctorate in Public Health, and I have been working in the child abuse field as a researcher and administrator since then. In fact, I began working in the field before this particular piece of legislation had originally passed, and I remember those first hearings when it was declared there may be as many as 60,000 cases of child abuse and neglect in our country each year. How much has changed in our knowledge about the problem.

Today, I'd like to spend a little bit of time reviewing what we know about the magnitude of the problem, talk a little bit about what's going on in the children's protective service system today in contrast to the 1970s, and highlight some of the problems we face today, note the role of CAPTA with respect to CPS and the child abuse field, and finally, identify some priorities that I feel should be focused on as you move forward with this legislation.

First, with respect to the magnitude of the problem, every year we gather data on child abuse reports and fatalities nationwide. For 1993, there were almost 3 million reports of suspected child abuse and neglect sent to children's protective service agencies across the country. Over 1 million of those were confirmed or substantiated as child abuse cases. That represents a 50 percent increase in the last decade. Quickly, 47 percent of those reports were neglect, 30 percent physical abuse, 11 percent sexual abuse and 2 percent emotional maltreatment.

Three children a day, or over 12,000 a year, are confirmed as child abuse fatalities each year through our children's protective service system. Susan Smith is not the only parent in this country who is guilty of this horrendous action. That also represents a 50 percent increase over the last decade, which is probably an undercount, 75 percent of those children are under the age of five, 50 percent of them are under the age of one.

Annually, we do a public opinion poll to see what the public feels about this problem. Briefly, the public is fully aware of this problem, they understand that there are many different forms of child abuse. They are deeply concerned. They feel that both they and governments at all levels should be involved in responding to this issue.

In the early 1970s and throughout the 1970s, the children's protective service system looked very different than it does today, even though before CAPTA was ever passed there were in every State laws requiring that reports be made, mandating reports, and that most of those States actually had an immunity clause for reporting in good faith.

Indeed, during the 1970s, case workers had manageable case load sizes, children's protective services was seen as a helping agency, the focus was on treatment, it was not unusual for families to report themselves to this agency if they needed help.

Today, with the over 50 percent increase in reports in the last decade, and hardly a 10 percent increase in resources, the children's protective service system is overwhelmed, overburdened, under-financed. Workers have very large, unmanageable case load sizes. They receive relatively little, if any, training or good supervision. The majority of funds in children's protective service agencies today are spent on investigations, investigations, as we've heard, that are not always handled with the kind of respect and dignity for families that we would all want. Fewer and fewer families where abuse is confirmed receive any kind of treatment. Fewer than two thirds of the families confirmed last year as cases where abuse had indeed happened received any kind of help, and usually it consisted of a few visits by a social worker.

And, tragically, very few of the victims of abuse, the children themselves, receive any kind of direct therapeutic intervention.

Since 1974, when CAPTA was passed and the National Center on Child Abuse and Neglect was created, the Federal Government has played a role with respect to this problem. It has been relatively small, if you look at the number of dollars relative to the almost $3 billion spent by States nationwide, the $50 or $60 million that the Federal Government has had to administer has had some impact, but it certainly isn't the only reason for why we are in the situation in which we are today. Those funds have been primarily used as seed grants for research and demonstration projects, special grants to the States to allow them to test out and be creative about different ways in which they handle children's protective services. From my perspective, the net result of CAPTA over the last two decades has been a dramatic increase in our knowledge base about this problem, its magnitude and what to do about it.

When I think about priorities for the future, I think the primary thing that is missing from the discussion today, and, tragically, from the discussion almost always, is the issue of prevention. Children who are abused and neglected suffer a wide variety of emotional and developmental difficulties, scars that stay with them often for the rest of their lives and show themselves in a variety of other social problems, runaway youth, children who get in trouble with the law, with drugs, and later on children who may go on and abuse their own children.

Stopping the abuse before it happens makes sense for social reasons, to address the linchpin or underlying causes of these other social problems, but it also makes sense for humane reasons. So, I feel that a critical priority for the future is to focus on prevention, but I also feel there is tremendous need for reform in the children's protective service system. I feel that those reforms need to be brought about by the States and local communities, but with major leadership from the Federal Government. The Federal Government can play a role in making sure that our knowledge base is expanded. We don't know all we need to know about this problem, that the knowledge we do have is pulled together and disseminated to the States and local communities so they can use the science that exists as they go about designing improvements in their system.

I believe that the Federal Government can play a role in helping States so that there can be more interagency collaboration with this very complex problem as they address it, and I believe that the Federal Government can play a role in identifying certain minimal standards that every State system should have in place, including mandated reporting, including immunity in cases of good faith reporting, including confidentiality reports and prompt investigation.

Thank you for the opportunity to testify. We have some major problems on our hands. This is a very complex issue, and your attention to it is much appreciated by all of us.

Chairman CUNNINGHAM. Thank you, Ms. Donnelly.

[The prepared statement of Anne Donnelly follows:]

TESTIMONY

Presented Before Committee on Economic and
Educational Opportunities: Subcommittee
on Early Childhood, Youth & Families
January 31, 1995

By Anne Cohn Donnelly, D.P.H.
Executive Director
National Committee to Prevent Child Abuse

CHILD WELFARE: WHERE SHOULD OUR PRIORITIES BE?

My name is Anne Cohn Donnelly and I am Executive Director of the National Committee for Prevention of Child Abuse (NCPCA), a volunteer-based organization dedicated to preventing child abuse in all its forms. NCPCA includes a network of chapters in all 50 states representing some 120,000 concerned citizens.

It is a great pleasure to present testimony to the Committee on Economic and Educational Opportunities: Subcommittee on Early Childhood, Youth & Families regarding "Keeping Kids Safe: Exploring Public/Private Partnerships to Prevent Abuse and Strengthen Families." As background for you as you consider child welfare issues I would like to discuss a bit about the history of the federal Child Abuse and Neglect Treatment Act, to present to you the latest child abuse and neglect statistics, including the 1993 child abuse reporting and fatality data, information on why we should focus on preventing child abuse before it occurs and what the preferred approaches to do so are; and offer some thoughts on why a federal role in the child abuse area is important and what that role might include.

BACKGROUND

The public identification of child abuse as a problem dates to 1962 with the publication by Dr. C. Henry Kempe of his article, "The Battered Child," in the Journal of the American Medical Association. Child Abuse had long been with us, but it was not until this time that maltreatment of children was recognized as a medical syndrome and came to be the focus of public attention.

The identification of the problem of child abuse led to the development of child abuse reporting laws which were quickly adopted by all state legislatures between 1963 and 1967. When the Child Abuse Prevention and Treatment Act (CAPTA) was signed into law in 1974, an estimated 60,000 children were reported to have been abused each year in this country. The federal role as identified by CAPTA, was to provide limited financial assistance, technical advice, and to support research and demonstration efforts. The legislation established the National Center on Child Abuse and Neglect (NCCAN) to provide technical assistance and funding for efforts to prevent, identify, and treat child abuse and neglect.

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From the outset, NCCAN was meant to be an incremental approach to addressing the problem. Despite its limitations, NCCAN has provided some important support and service to its field. Let me cite a few examples.

Through its funding of programs, including the clearinghouse, to educate professionals and members of the public about child abuse and neglect, NCCAN has helped to increase awareness of the problem and develop a better understanding of what can be done to combat child abuse.

Through its program of basic state grants NCCAN has provided the states with seed money to support training, public education, and special efforts in treatment and prevention of child abuse. The small size and unfocused nature of these grants, however, make it difficult for states to engage in any significant reform efforts.

NCCAN has supported worthwhile demonstration activities in the past, which often have included evaluations so that the field can use the information about the results of those programs to build on the successes of those efforts. Similarly, NCCAN has funded good research activities over the years, and recently has begun to establish a more sequential research agenda that can build on knowledge already gained.

Similarly, NCCAN has supported data collection efforts that are necessary as the baseline against which we measure our knowledge about the extent of the problem, both in terms of reports to state protective service agencies and estimates the incidences of the problem, and the characteristics of children who are abused and neglected. These have been important efforts since they produce relatively accurate data that are now available and can be coordinated with other information collected about children.

Much has changed in the child abuse field as well as in the lives of children and families since CAPTA was passed and NCCAN was first established. It is a good time to assess those changes and take account of them with the reauthorization of this important federal legislation.

SCOPE OF THE PROBLEM

Since the enactment of CAPTA, the scope of the child abuse problem has seemingly become unwieldy and overwhelming. As will be delineated in more detail later, in 1993 almost 3 million reports of child abuse were filed -- this in contrast to the 50,000 or so reports in 1973. Three children a day were the fatal victims of maltreatment in 1993. The capacity of the current system to respond effectively to this challenge has come into question by both the professional community and the general public, not only because of increased numbers of reports but also due to the growing complexity of family problems.

Child protection services and child abuse prevention agencies have been hard pressed in recent years to provide adequate care for maltreated children and families in distress. While cases of child abuse and neglect have increased in number and complexity, with problems of substance abuse, homelessness and unemployment cited by states as principal contributing factors to the elevated levels of maltreatment, the ability of child welfare agencies to protect children has not substantially improved in recent years. In fact, CPS agencies now spend the majority of their resources on investigating reports of child maltreatment, rather than providing support to children and families in need. In the 1970's it was not unusual for a parent to "report themselves" to CPS if they were having difficulty; parents knew CPS would try to help them. Today, a parent would self report only with fear and trepidation.

In the 1970's, CPS agencies actually offered intensive, supportive services to families after abuse was confirmed. Today, fewer than two-thirds of the confirmed cases receive any treatment -- and that treatment usually consists of a few counseling visits by a social worker. In the 1970's it was not unusual for the child who was abused to receive some specialized therapeutic assistance to grow beyond the scars of abuse; today a small fraction of all maltreated children receive direct therapeutic help. (And yet we know better today than ever before that abused children suffer a wide variety of emotional and developmental problems!) And, in the 1970's CPS did little to focus on preventing abuse before it occurred not out of a lack of intent but out of a lack of knowledge about how to do so; today we know a lot about how to effectively prevent child abuse. Regrettably, the interest in doing so seems to be minimal.

LATEST CHILD ABUSE AND NEGLECT STATISTICS

A. *Child Abuse Reports and Fatalities*

Since 1982, the National Committee to Prevent Child Abuse (NCPCA) has conducted an annual national telephone survey of child protective service (CPS) agencies in all 50 states. The initial surveys focused exclusively on increases in the number of reports and the effects of budget cutbacks. Beginning in 1986, NCPCA developed a more standardized instrument which focused on the number and characteristics of child abuse reports, the number of child abuse fatalities and changes in the funding and scope of child welfare services. This instrument, which has been utilized for the past eight years, provides more reliable estimates of the number of reports and fatalities across time and across states.

The total number of child abuse reports increased once again in 1993, climbing to over just under 3 million reports or 45 reports for every 1,000 children in the United States. This figure is over 2.5% higher than the number reported in 1992, and 50% higher than the number reported in 1985. The number of substantiated reports for 1993 was 1,016,808 children or 15 per 1,000 children. The number of substantiated cases rose at essentially the same rate as reports overall.

Overall, child abuse reports have maintained a steady growth between 1985 and 1991, with annual increases of about 6%. This growth rate, while significant, is roughly half the annual rate of growth reported in the first half of the decade.

In general, 47% of the reports are neglect, 30% physical abuse, 11% sexual abuse and 2% emotional maltreatment with the remaining 9% for other. With respect to substantiated cases, 47% were neglect, 27% physical abuse, 15% as sexual abuse and 9% emotional maltreatment.

Dramatic increases or decreases in reports (i.e. plus or minus 10%) in any given two year period generally reflect changes in a state's data collection system. For example, the 23% increase in reports noted in North Carolina last year reflect the fact that this state implements direct on-line data entry by count. Administrators in states that have experienced gradual increases over the past several years, however, cite several primary factors for this trend. First, roughly half of these administrators saw the increase as stemming from increased public awareness and willingness to report suspected cases of maltreatment. Second, economic stress due to poverty, unemployment and related work concerns were cited by one-third of the administrators as contributing to increased reports.

Confirmed child abuse fatalities have increased by 50% since 1985. A total of 1,299 children were officially confirmed as fatal victims of maltreatment last year, 150 more than were reported in 1992. The 1993 statistic is a projected number based on data from 37 states comprising 61% of the U.S. child population.[1] This represents at least three children a day.

Approximately 42% of these deaths occur to children known to the local child welfare system either as prior or current clients. As for the cause of death, 40% of the deaths result from physical neglect while 55% are the result of physical abuse. Each year the vast majority of these cases have involved young children. In 1993, 86% of the victims were under five years of age and 46% were one year or younger. Increases in deaths may be due to better counting in some states in part due to the introduction of death review teams. The prevalence of substance abusers, economic factors and the paucity of prevention services for these families are also significant factors.

With respect to funding for CPS, in 1993 only 24 states showed increases in funding; five experienced decreases and 17 reported no change in funding level. Overall, the system continues to face growing demands without adequate increases in resources. The net result is caseload sizes which are too large, inadequate, worker supervision and training and lack of services to offer families where abuse has been confirmed.

B. The Publics Opinions about Child Abuse and its Prevention

Since 1986, the National Committee to Prevent Child Abuse has commissioned national public opinion polls to determine the public's attitudes and actions with respect to child abuse prevention. Each survey has involved a representative telephone survey of 1,250 randomly selected adults across the country of whom approximately 36 to 38% are parents with children under 18 living at home.[2]

This year, as in the past eight years, we found that the vast majority of the public see physical punishment and repeated yelling and swearing as detrimental to a child's well-being. In the most recent survey, 71% of the public felt that physical punishment can lead to injury and 91% of the public believed that repeated yelling and swearing can lead to long-term emotional harm.

In the most recent survey, 45% of parents reported that they had insulted or swore at their child and 49% reported that they had spanked or hit their child in the past year. While similar to the figures obtained in last year's survey, these findings compare favorably to the patterns observed in 1988. Compared to 1988, 10% fewer parents are reporting the use of insulting or swearing and 15% fewer report the use of spanking as methods of discipline. This is an important and very positive shift in parenting practices across the country.

For the first time since 1988, parents expressed greater optimism in their ability to prevent child abuse. In the most recent survey, almost two-thirds of the general public and close to three-quarters of the parents felt they could make a notable contribution to prevention. Further, as in past, one in four individuals and one in three parents report having taken personal action in the past year to prevent child abuse.

The public is quite interested in specific prevention interventions as well. Eight percent of the 480 parents interviewed in the most recent survey indicated that they had received a home visit within the first six months after giving birth. In over half of these cases, multiple visits were provided. Of those who received the services 84% reported that the visit was helpful in learning how to care for their child an increase of 15% over 1992. Interestingly, close to 80% of those parents who did not receive the service felt such a service would be useful for parents like themselves. Sixty-seven percent of all respondents without children under 18 in the home approved of the government supporting the provision of home visits for parents.

THE CASE FOR PREVENTION

Child abuse hurts -- the after effects, which are well documented, are devastating. Abused children suffer a wide variety of emotional and developmental as well as physical problems -- both acute and chronic. Some children die. These problems often become evident in the emergence of other social ills -- e.g., teenage runaways, teen prostitution, alcohol and drug abuse, school problems, juvenile delinquency. For these reasons, child abuse costs us dearly -- from a humane perspective in the injury of a child and from a financial perspective in the ongoing costs associated with responding to the problems which emanate from child abuse.

The case for working to prevent child abuse before it occurs is clear. Prevention spares the hurt and can save lives; prevention also saves money. For those concerned about when intervention can make the biggest difference, researchers have documented the effectiveness of various prevention services as well as treatment services after abuse has occurred; prevention approaches are more likely to be successful (Cohn and Daro, 1988). This, too, supports the case for prevention. And, for those concerned about just how overwhelmed the treatment system currently is, the work of prevention may be the best way to reduce this burden.

Table I: Goals of Prevention Efforts

- increase future parents' knowledge of child development and the demands of parenting
- enhance parent-child bonding, emotional ties, and communication
- increase parents' skills in coping with the stresses of infant and child care
- increase parents' skills in coping with the stresses of caring for children with special needs
- increase parents' knowledge about home and child management
- reduce the burden of child care
- reduce family isolation and increase peer support
- increase access to social and health services for all family members
- reduce the long-term consequences of poor parenting

How to Prevent

Child abuse is a complex problem with many underlying causes having to do with both individual (e.g., a parent's lack of understanding of child development) and environmental (e.g., poverty) factor. To be successful, prevention efforts must ultimately take account of the variety of underlying causes -- both personal and societal. Such a comprehensive approach would include public awareness efforts to educate the public about the magnitude of the problem and how to get involved in its prevention while addressing attitudes about parenting. Certain key prevention services should be put in a place to help all new parents to get off to a good start and to make sure that all parents under stress have access to various crisis and support services, all victims get the therapeutic assistance they need to break the cycle of abuse and all children the opportunities to learn how to protect themselves from abuse. In addition, efforts must be directed at certain societal barriers to abuse such as the use of corporal punishment in schools or the amount of media violence. Finally, issues such as substance abuse, poverty, family and community violence, and cultural diversity must all be addressed. The consensus in the field is clear -- no single approach, no single program will be enough to prevent abuse; all elements of a comprehensive approach ultimately need to be in place (Cohn, 1983).

Table II: Comprehensive Approach to Prevention

- support programs for new parents
- education for parents
- early and regular child and family screening and treatment
- child care opportunities
- programs for abused children and young adults
- life skills training for children and young adults
- self-help groups and other neighborhood supports
- family support services
- community organization activities
- public information and education on child abuse prevention

Where Should Prevention Efforts Begin

In 1991, after a year of study of how the United States should respond to the national child abuse emergency, the U.S. Advisory Board on Child Abuse and Neglect declared that while there are dozens of important things to do, a logical place to start is with new parents, helping them get off to a good start before abuse patterns begin (U.S. Advisory Board, 1991). With new parents, especially first time parents, we have the opportunity to encourage and if necessary to teach good parenting practices before bad patterns are established. New parents are often characterized as "like sponges", anxious and ready to learn anything they can about their new babies and how to care for them. Second, most reported cases of physical abuse and neglect occurs among the youngest children (e.g., under age 5) (AAPC, 1988). By focusing on new parents we are reaching the target population where the incidence of physical abuse and neglect is likely to be the greatest. Our knowledge about the effects of working with new parents and the prevention of sexual abuse is scant (Musiak, Bernstein, Percansky, and Stott, 1987); working with new parents may not be among the most important first steps in prevention with this form of abuse as it is with physical abuse and neglect.

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What Approach to New Parents Should We Take

The U.S. Advisory Board on Child Abuse and Neglect recommends a voluntary program of home visits to new parents and their babies as the desired approach. Many others have expressed similar views. There are a number of reasons why this is so.

First, home visiting has widespread appeal. It affords an opportunity to work with individuals in the family context or environment, enabling the professional or volunteer visitor to learn first hand the conditions of life for the parent and child and to respond to them. In other words, to provide the opportunity to tailor the service (e.g., home visit) to the needs and characteristics of the parent and the child in their own natural setting.

Home visits uniquely provide a way to reach isolated families, families that typically do not participate, families that are too distrustful or too disorganized to make their way to a center based program or a workers office. In this sense, home visiting provides a unique opportunity to engage dysfunctional families.

The public is most supportive of the home visitor concept. A public opinion poll conducted in 1991 by the National Committee to Prevent Child Abuse showed that 86% of the respondents thought it appropriate to offer home visits, and other supportive services to all first time parents.

An additional indicator of just how widespread the appeal is of home visitor services, is the number of such programs which already exist. The National Parent Aide Association, for example, has documented over 650 community-based programs across the country which provide home visitor - type services to parents (Bryant, 1991). Further, national surveys of hospital administrators conducted by NCPCA find that over one-quarter of all hospitals report offering home visiting services to high-risk new mothers (Daro, 1991).

In addition to the widespread appeal of home visitor services, there is a solid and expanding evaluative data base on the efficacy of the approach. The studies date back over two decades (Daro, 1988).

In the early 1970's, the C. Henry Kempe National Center of for the Prevention and Treatment of Child Abuse conducted a controlled experimental design study of nurse practitioner home visitors with a sample of high risk new parents. The study documented enhanced mother/infant relationships and a reduction in child abuse among the experimental group (Grey, Cutler, Dean and Kempe, 1979).

From the mid 1970's through the early 80's a number of large scale evaluation studies of federally funded child abuse service programs, which included high risk as well as abusive clients, were conducted (Cohn, 1979; Cohn and Daro, 1988; Daro, 1988). The studies compared the relative effectiveness and cost effectiveness of different service interventions. The home visiting services of parent aides, coupled with group services such as group therapy or Parents Anonymous, and homemaker services significantly reduced child abuse potential in contrast to those clients receiving basic counseling or only out-of-home assistance.

Dr. David Olds and his colleagues (1986, 1990) have conducted the longest and perhaps most thoroughly designed and carefully controlled studies of the home visitor model from the scientific perspective. In his first study 400 first time mothers were randomly assigned to four groups one of which

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received: (a) intensive pre and post natal visits by a nurse practitioner; (b) parent education on fetal and infant development; (c) involvement of the mothers friends and family in child care and support of the mother and (d) linkages to health and human services. This experimental group showed 4% abuse at the end of the study in contrast to 19% in the control group; the experimental group also demonstrated fewer accidents, less required use of the emergency room, less need to punish and discipline their children and longer spacing between children. Dr. Olds is cautious in generalizing his findings to populations beyond the young, low income single mothers served.

Other less controlled studies support the value of home visitor services in various settings. Lutzker and Rice (1984, 1987) conducted a study of Project 12 Ways, a multifaceted home-based service program in Southern Illinois in which home visits to new parents were offered by graduate students. At the end of the program abused had been detected in 2% of those receiving the home visits in contrast to 11% in the control groups. The relative effectiveness of the program continued for at least one year. In a one year follow-up, abuse was found in 10% of the experimental group and 21% of the control group.

Seitz and her colleagues (1985) studied the impact of intensive home visits to first time mothers for 20 months after birth. Follow-ups were conducted on 15 of 17 matched sets of families up to 10 years after the program. Seitz documented steady improvements in parenting and family life over the 10 year period.

In addition, Hawaii has conducted several studies of its universal voluntary Healthy Start program in which paraprofessionals intensively visit new parents identified at risk of abuse for up to 5 years after birth. The program includes the provision of other health and child development services as well. Of over 1,000 high risk parents served, and studied, abuse was reported for only .8% (Breakey and Pratt, 1991).

The studies done on home visitor services consistently suggest that this service approach has significant benefits in the prevention of child abuse and other related problems. The studies done have not been perfect. Many questions still remain unanswered with respect to home visitor services and should indeed be addressed. And yet, the evidence is convincing enough for the U.S. Advisory Board, the National Committee to Prevent Child Abuse and others to pursue the delivery of home visitor services for all new parents. As the late Dr. Ray Helfer said often "if you wait for all the research to come in you'll never accomplish anything."

What then are the essential elements of home visiting which are important in replication

A review of the literature and other observations about home visitor services results in the identification of a number of elements which would appear to be essential in the successful provision of such services: (See attachment B for a detailed description of these)

- start at least the time of birth, or earlier if possible
- universal provision of some service to all new parents
- screen for high risk (by highly qualified workers)
- offer follow-up home visitor services on a voluntary basis, especially to high risk parents
- offer services in the home, at least initially, where one has complete access to the parents and child
- offer intensive services: at least once a week for the first six months

- offer services for a long period of time: at least six months; up to five years
- tailor services to a family's specific needs
- focus on friendship, trust, social support
- maintain close ties for the family to the health care system and, if necessary, increase support services
- ensure that visitors receive intensive, ongoing training and supervision

The Hawaiian Approach

A wonderful model embracing these dimensions which reaches all first time parents with intensive home visitor services already exists in the State of Hawaii. There, over the past seven years, the state's Maternal and Child Health Program has pilot tested, evaluated and now put into place for over 50% of their new parents a program called "Healthy Start." Visits by paraprofessionals to all new parents begin in the hospital at the time of birth and for high risk parents continue during the critical first months and if necessary, first years of the child's life. The services thus far have resulted in the physical child abuse in the population served. The visits are voluntary; very few of the at risk parents refuse the services. The home visits are complemented by an impressive array of medical, child development and social services. The home visitors receive intensive training and ongoing supervision. The program is a public/private sector partnership with the state administering the program and private agencies delivering the services. The state's goal is to serving 100% of new parents within the next several years.

Healthy Families America

Because of the U.S. Advisory Board's recommendation, because of the general interest in the field in helping new parents get off to a good start, because of the growing data base showing the effectiveness of the home visitor approach, because of our own belief in it, the National Committee to Prevent Child Abuse, in partnership with the Ronald McDonald Children's Charities (RMCC), launched a national initiative in 1992 entitled "Healthy Families America". The initiative seeks to make sure that all new parents, especially those at high risk, get off to a good start by replicating the Hawaii model across the country. We are working in conjunction with the Hawaii Family Stress Center and Hawaii's Maternal and Child Health Departments and other interested state and national organizations.

Our goal is to lay the foundation for a nation-wide, voluntary neo-natal home visiting program with a network of state level organizations that are willing to establish home visitor services. NCPCA is providing assistance to help states and communities do so.

To date, a tremendous amount of activity has already occurred reflecting the level of excitement about Healthy Families America:

- In essentially every state, some combination of state-level public and private agencies have made a commitment to work together to establish a statewide plan for universal support to new parents -- typically this includes the state's Maternal and Child Health Division, the state's Children's Trust Fund, our own state Chapter and other private groups such as the state Nursing Association.
- Over 70 communities have already implemented a pilot program.

- An additional 40 sites should be operational within the next four months.

In general these Healthy Families America sites have been established with a patchwork of public (typically states) and private (typically corporate or foundation) funding. Most have built in evaluations to determine just how effective they are. And all are committed to "going to scale" (e.g. becoming fully statewide) at some point. They reflect the best of community collaboration and comprehensive service delivery. Because they are all pilot efforts none at this point have any guarantees of stability of funding.

CONCLUSIONS

Child abuse reports and, most tragically, documented child abuse fatalities continue to rise. The child abuse problem remains a national emergency. As a nation we spend in excess of $3 billion responding to the problem after it has occurred. We spend over $3 billion investigating whether or not abuse has occurred and offering generally unproven and often inadequate services to families already crushed by abuse. It is time for change. It is time for major change. It is time for a major investment in the prevention of child abuse before it occurs. It is also time, to focus on reforming CPS. For all of this to happen, the federal government must play a role. Key elements of the unique and essential role for the federal government follow:

- There are aspects of the problem that we need to know more about; there is a clear leadership role for the federal government to play in supporting a national research agenda and in helping to move that agenda forward.

- There is much we do know and much that states and local communities establish in the way of knowledge on a regular basis; there is a clear leadership role for the federal government to play in supporting efforts nationally to collect, consolidate and make broadly available that which is known about the problem.

- Understanding the magnitude of the problem nationally as well as locally is important in planning for the policy and resources; there is a clear role for the federal government to play in gathering standardized data from across the country including uniform reporting information.

- Too many children suffer needlessly at the hands of their parents from abuse and neglect; there is a clear federal role in helping the nation focus more effort on prevention.

- Too many children who have been abused fail to receive any help from the very agencies which have investigated and confirmed their abuse; there is a clear leadership role for the federal government to play in helping states reform their CPS systems so that children actually get help.

- Because of its complexity, responses to the child abuse problem are best handled by a number of different agencies; reforms in funding streams, confidentiality laws and the like are essential to allow for effective interagency collaboration; there is a clear leadership role for the federal government to play in helping facilitate interagency collaboration at the state and local level.

Too many families reported to the CPS system experience negative consequences even though abuse (as defined by the given state's law) has not occurred; there is a clear leadership role for the federal government to play in helping states provide desperately needed training to its CPS workers so that all families reported to the agencies are handled well.

In thinking about the federal role some additional comments seem in order. When CAPTA was last reauthorized in 1992, the statute was amended to focus the basic state grants on the improvement of CPS systems. The National Child Abuse Coalition, in which we participate in developing policy recommendations, is proposing that consolidating the basic state grant authority in CAPTA with Title IV-B will improve the ability of states to make those changes in CPS that are so desperately needed. The measure should be implemented, as authorized now, to focus state grant support on improving overburdened child protective service systems. By helping states strengthen the procedures for intake and screening of reports, investigation of reports, and case management, these state grants, as part of Title IV, should help in preventing the further or repeated abuse of children already identified to the protection system.

We recommend, also, that the consolidation of support for child abuse prevention programs that began last year in Title IV-B of CAPTA appropriately recognizes the need to address the costly consequences of child maltreatment. Each case of child abuse costs at least $2,000 for an investigation and short-term treatment, significantly more when a child must be hospitalized or put in foster care. Other costs can arise later -- overwhelming numbers of juvenile delinquents, adolescent runaways, violent criminals, sexual offenders, and prostitutes report childhood histories of battering and exploitation.

Federal leadership, even on a modest scale, is essential if we are to improve our response to this problem. Research and demonstration grants from the federal government to move the field forward in knowing how best to improve our intervention and treatment of cases of child maltreatment are crucial. So too is research which addresses issues of prevention so we can advance our knowledge here. We suggest that Congress examine those funding authorities that might appropriately be consolidated with the CAPTA research and demonstration grant funding to provide continued grant support for addressing issues confronting services to families and children in crisis.

It is essential that we investigate the appropriate roles to be played by other federal agencies, in HHS and in other departments. A broad range of professions deals with treating and preventing the maltreatment of children. The federal role should reflect that multidisciplinary responsibility, not only as a function of social services but also that of education, public health, mental health, law enforcement, and the judiciary, among others. Only by drawing upon a multiplicity of resources will the federal government be able to respond to what the U.S. advisory board has correctly called a national emergency.

We urge you to recognize the serious nature of child abuse and neglect, and the need to provide targeted federal funds to help state and local agencies protect children and serve families. We look forward to working with you to develop the federal legislative framework for addressing child maltreatment which will ensure that important gains for children and families are enacted into law.

ATTACHMENT A

WHAT DO WE KNOW ABOUT WHAT HOME VISITOR PROGRAMS SHOULD LOOK LIKE?

As with outcome data, our information base about what home visitor programs should look like its growing, albeit still limited. On some program dimensions our common sense at this point may be as important as any research results.

(a) *General Models*

There are at least two distinct models which have been used for home visitor programs. In the first (described as primary prevention) an effort is made to provide education and support to all parents at the time of birth, either by targeting all births or a given hospital or in a given geographic area. One or a few contacts with the parents are used to impart information, acquaint the parent with community resources, and make referrals if indicated. In the second, certain parents are identified and targeted for service because they are believed to be at higher risk to abuse. Such programs (dubbed secondary prevention) may target all first time parents, all teen parents etc. Typically home visits are offered on a more intensive basis and for a long period of time. Research evidence tells us that the more intensive approach with high risk parents is more effective than widespread low intensity services in ameliorating the personal conditions which contribute to abusive behavior. Yet, common sense tells us that in an ideal world we would probably both blanket all new parents with some information and support and provide more intense home visitor services for those at greatest risk to abuse.

(b) *General Purpose*

The purpose of the home visitor program can vary dramatically from those which focus on the parent and the improvement of parenting skills to those which focus on the child, child development and school readiness and to those which focus on the family as a unit and its needs (e.g., housing, medical care, job). Once again, research has not been done to establish if one of these approaches is more effective in preventing child abuse; indeed such research would be difficult since most programs seem to do a bit of each. However, common sense guides us a bit here -- for example, a parent overwhelmed with housing problems may not be ready or able to absorb important parenting information. Family needs have to be tended to in order to be able to address parent and child concerns. And ultimately, the focus on parenting skills must be seen as an essential component in preventing child abuse.

(c) *General Format*

In addition to where the focus is, programs can vary by their general format. Some home visitor programs are built around a curriculum or fixed set of information. This more didactic approach can be contrasted with those programs in which the content of services is tailored to the individual needs of the parent and child, e.g., the format is flexible. Modest research done here suggests that an individualized approach is likely to have the bigger payoffs in preventing child abuse. While more effective, however, the individualized approach is much more difficult, particularly when visitors have big caseloads or lack appropriate, in-person supervision.

(d) *Role of the Home Visitor*

What role should the home visitor play in the parents life? Is the visitor a friend? a teacher? a social worker? a nurse? Should the visitor take a more conventional approach in defining the relationship? (e.g.. "the parent has deficits which I can help fix") or a collaborative approach (e.g.. "we have things to learn from each other"). Once again, research here is limited but supports the collaborative approach. Perhaps at times the visitor will play any one of a number of roles but the most important one appears to be "friend", a person who can establish a trusting relationship with the parent. To the extent a visitor cannot play all roles (e.g.. social worker or nurse) she should be able to get the family access to such services (Daro, Jones et al 1992).

(e) *Do Visitors Need to be Professionals*

There are very different and very strongly held views about whether or not visitors need to be professionals. There is no one study that I am aware of that compares the relative effectiveness of the different approaches (e.g.. nurse practitioner, paraprofessional, neighborhood volunteer) so we really don't "know" which approach is best. What we do know is that the studies which have been done of individual approaches result in evidence suggesting each approach can work. Dr Olds' successful program is conducted by nurse practitioners (Olds and Henderson, 1990). In 1990 a review of randomized trials of home visitation found that the more effective programs employed nurses who began visiting during pregnancy and for a significant (e.g.. 2 years) period of time thereafter (Olds and Kitzman, 1990). In Hawaii's Healthy Start, highly trained, well supervised paraprofessionals are effectively used. In the Ford Foundation's "Child Survival Fair Start Initiative" parent volunteers were used effectively to increase parents' ability to get and use medical care, discuss problems and use community resources (Halpren and Larner, 1987).

Many operating home visitor programs have suggested that the following are the most important characteristics of successful home visitors: has an active interest in people; has an ability to engage people socially; has her own stability; and accepts other peoples life situations without judgement (Larner, 1990). At least one study confirms that staff members acceptance of and expectations of parents have a lot to do with the extent young mothers benefit from services (Musiak, et al, 1987).

(f) *What About Service Planning and Supervision*

There are ample questions about how much supervision home visitors need to be provided, particularly given that they are working with high risk families. Research on child abuse treatment programs suggest that workers need high quality, ongoing, in person supervision. The same should certainly be true for home visitors, particularly lay or paraprofessional workers. One study emphasizes this point with service planning as well (Cohn and DeGraff, 1982; Cohn, 1979): Once again this was a study of child abuse treatment programs; we assume the findings translate to prevention. The study, a 3-year evaluation of federally funded demonstrations, found that the more qualified the intake worker (e.g.. the more skilled the person doing the initial diagnosis and service plan) the more likely services would be effective. By putting

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the most qualified staff up front to help develop an individualized service plan for a family, the more likely home visitor services can be effective.

(g) When Should Services Begin

There appears to consensus that services should begin as early as possible. Research supports this view. Larson (1980) found the earlier the prenatal intervention the more positive the parenting later. NCPCA had similar conclusions: initiate as to close or as soon before birth as possible.

(h) How Long and How Intense Should Services Be

Clearly, the length and intensity of services will of necessity vary from one person to another. However, research findings are fairly consistent about the norm. Earlier studies of child abuse treatment programs showed that contact at least once a week and preferably three times a week for at least six months was important in order to see a reduction in the likelihood a parent would reabuse. More recent studies of prevention programs by NCPCA suggest the same -- while it is often possible to change a parents knowledge quickly, at least six months of intensive contact is necessary to change attitudes, strengthen skills and thus improve parenting behavior (Daro, Jones et al 1992). Much longer is probably beneficial in many cases, particularly for the higher risk parent. Many believe services should continue until the child in school (age 5) or preschool (age 3). We conclude that in general, home visitor programs should continue for a long period of time and should offer intensive services.

(i) Should Services Be Voluntary

All of the prevention programs we are aware of in the United States are in fact voluntary. Data thus do not exist on what outcomes can be expected from parents who would not volunteer to receive a visitor in their home but would be mandated to do so. Given the preventive nature of the intervention it may be hard if not impossible to craft a program which would mandate a home visitor service; however, such services could be made universally available.

(j) Where Should Home Visitor Services Be Housed

Once again, we have no research on where the best home for home visitor services would be. Public or private agency? Health or Social Service Sector? The potential for debate here is great. There probably is no one right answer. We have seen programs work effectively in a variety of settings. Some things are clear: private agencies have an easier time providing flexible, individualized services and public agencies are in a better position to ensure consistent training, funding and so on across sites. Health agencies will have a much easier time making sure families get the immunizations, well child visits and other medical care services truly needed. (Whatever other needs a family has, access to medical care for immunizations, well child visits, etc. is critical to a child's development.) Social Service agencies have the close ties to the child abuse professionals who work with abuse once it occurs and to public assistance programs. A collaborative approach or partnership that creates roles in which all these agencies work together is the approach most likely to result in effective services for families.

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Chairman CUNNINGHAM. I'm going to break my rule, I want to ask a question, and I thank all the panelists. I'm only going to ask one question, and it's to you, Ms. Donnelly. To find a balance between the abuse of children and the abuse of parental rights, there's got to be a very fine line there.

And, as I look at it, any time you have large organizations, the individual States or the individual units, it's hard to control everything. You can even submit it, but I would love to have your recommendations on how that we look at both sides of the issue that's brought forward today from your perspective, and how we balance that. From the other panelists I would like your perspectives. And you may provide for the record also on that. If you would comment just briefly on it and then I'll pass it over.

Ms. DONNELLY. I think it's a very complex problem. I don't think there are any easy answers. Clearly, there are issues at both ends of the spectrum. There are serious cases that get overlooked. There are cases that come into the system that shouldn't.

But, one thing that seems to be almost obvious is, if the people within the system don't have the training they need, don't have the supervision they need, don't have the resources that they need in order to do an adequate job, an adequate job is not going to be done. And, I think tragically and too often that's what we are seeing across the country. You have workers who are investigating cases who haven't had the benefit of learning all the things that are already known about how to do a quality investigation. You have workers that are investigating too many cases at once, are managing too many cases at once. So, that seems to me one obvious place to look, but I'd love to answer that more fully and look at it more broadly.

Chairman CUNNINGHAM. I'd love it, and for all the panelists in this crime bill we passed, Jennifer Dunn and Nathan Deal—they call it the "Dunn Deal," doesn't affect so much of the parents involved, but for sexual predators in general that did pass. And those individuals once convicted have to register in their local community. We feel that that type is the highest return rate of any of child abuse, and if I had my way, I won't say on this committee what we'd do to them, but I thank you.

At this time, Mr. Riggs, is he gone? Mr. Souder from Indiana. You pass. And, with that, I would go to Mr. Kildee.

Mr. KILDEE. Thank you very much, Mr. Chairman, and I thank the panel for their testimony this morning.

Let me address this question to, I think, Ms. Hopkins initially, but others may join in in the answer to help us on this. How did CAPTA lead to the terrible tragic situation in the Wade family? Would the situation have occurred had not CAPTA been in place?

Ms. HOPKINS. That's a very interesting question, and when we took testimony we heard over and over again that CAPTA was the origin of the problem, and then as I've studied it further I have discovered that, perhaps, it's not quite that simple.

To me, CAPTA was in some ways the linchpin that started some legislation, major Federal Government legislation and funding, that provided huge amounts of money to the States once children were actually pulled from their families.

However, it did not provide the same level of money for preservation, for services to the families. For example, in the Wade case, had the child been left in the home, this county would not have received the money that it did for attorneys, for foster care, for therapy intervention, et cetera.

In this particular case, it was not as important because this was a naval family, and they received money, there was therapy money available for psychological services through the Navy. In fact, this became something of a cash cow for the county, because while they were getting money from the State and Federal Government in that case, they were also being reimbursed by the Navy.

But, in many ways, I think if you look back at the kinds of guidelines that were put in place, that the States followed because of CAPTA, such as in California, despite the fact that I don't believe CAPTA meant to imply total immunity, in California it has been implicit that there was total immunity to everyone involved in the system. Now, that has been eroded in part in California just in the last year and a half by the Wade case, because it was so egregious that they said, "No, there's only a total immunity in the reporting process, that those who are involved in the investigative process will only enjoy qualified immunity."

However, despite that decision by the 4th District Court of Appeals, it has continued in other cases, and I think in San Diego County we have about 40 civil cases now in process that the total immunity is still holding in many of those cases.

We believe that had there been qualified immunity, had the Department of Social Services known that, that some of the excesses would not have occurred. And, just in response a bit to what Ms. Donnelly said, San Diego County did not have a high case load for social workers. San Diego County, therapy is provided for every single child, every single member of the family who is brought into the child protective services. It was considered the national model.

The APSAC, which is the American Prevention Society for the Abuse of Children, the annual conference is held in San Diego. The therapeutic model which was referred to by Mr. Wagner originated in San Diego County. So, we have a situation where we have been considered a model nationally, and yet, I think that some of the worst problems have come out of San Diego.

Mr. KILDEE. You know, nothing in CAPTA really even implies total immunity. I mean, that is an error made on the local level, and we can't control errors made by local officials. You probably wouldn't want us to. Some people don't want the Federal Government to get into that.

But, it certainly doesn't flow from CAPTA. The amount of money in CAPTA is only about $60 million, and it is driven to States on the basis of number of children under 18 years of age. It is based on the number of cases or accusations.

Mr. Wagner?

Mr. WAGNER. I just want to say that I think Ms. Hopkins is correct, but I wanted to add, it's a good question to raise, and it was similar to one that Mr. Greenwood raised earlier with Mr. Hutchinson, and the point is that the Federal versus State problematic is not the only one on the plate for us. Our decision is not only how much are we going to assign or fragment to the States. That's an important question, and my bias is more towards States than towards Federal, but there are other questions, too. How much jurisdiction over child abuse are we going to assign to the criminal justice sector as distinct from the therapeutic sector? And, I think that regardless of whether the regulations are coming at the Federal or the State level, that second question also needs to be addressed, and I think that our marks show that I would be more partisan of the criminal system with its constitutional procedural protections than the therapeutic.

Mr. KILDEE. Thank you.

Thank you, Mr. Chairman.

Chairman CUNNINGHAM. Thank you.

I'll recognize Mr. Castle from Delaware, and on deck Mr. Souder.

Mr. CASTLE. Well, thank you very much.

This is just an incredibly confusing subject, because it's so large in terms of the Federal programs, but I think what I heard from some of you, particularly, Ms. Clark and Ms. Hopkins, were that there are cases over over-surveillance or over-reaction, maybe all of you hinted at that in one way or another.

We heard from Mr. Wagner, in particular, some concerns about the interventions being excessive, but other situations in which there's under-intervention. Obviously, I think we all feel that we don't want over-reaction where it should not take place, but if there's abuse going on, and it's more allegations of abuse going on now that we do want some sort of intervention.

We, as a Federal Government, are looking at the possibility of terminating programs which don't work, of consolidating programs, of consolidating in a block grant format and turning it back to the State, perhaps, with some requirements that might apply there.

Keeping it very general, I would just like to ask you, and maybe we can start and go through to the red light with Ms. Clark, what your thoughts are about in a broad sense the direction you think this should go. But, I ask you another question, an alternative question if you want to answer that instead. I am terribly concerned about child abuse as I see it in this country. As you know, we have more out-of-wedlock births. We just seem to have more social problems out there, not necessarily leading to deaths or whatever, but just problems within families. Are there things beyond government in terms of the broad media sense, or other things that we should be trying to at least instigate in this country to try to address these problems? So, that gives you a whole world of things to answer from. See if you can do it in a minute or less.

Ms. CLARK. Well, I think that, you know, as I said I have three children, and I try to teach my children not to tattle on each other, and the way I define tattling is, telling something designed to get somebody else into trouble. But, if there is a serious problem going on, then you should tell someone. That's how I make the difference.

Now, unfortunately, we have been encouraged, partly by the private sector, partly by government, to start tattling on each other. From the signs that are posted over parking places for the handicapped, call if you see someone misusing this space, you know, I think that that's part of the problem.

What tends to happen from the literature that I've read is that there is over-reporting for trivial things. People like in my neighborhood, where it's a middle-class neighborhood, everybody is good people, they are concerned about people, they want to make sure everything is okay. But, instead of going to the neighbor where they perceive there might be a problem, they are instead allowing the government to take care of it. I don't want to get involved, the government will handle that.

Mr. CASTLE. And, maybe so, this is brought on by the requirements that the government has put into place, is that correct?

Ms. CLARK. Right, the mandated reporting. It has removed the responsibility from the person in the community to the government, and I think that that's not the government's function.

Mr. CASTLE. Thank you very much.

Let's move on to Mr. Wagner.

Mr. WAGNER. A lot of these problems tend to get analyzed in terms of a dichotomy between individual and community, where they simply assume the community and government are the same thing, and that latter assumption is one that I would like to challenge.

What we saw in Ms. Clark's case was a failure of community, because community relied instead on government. Also, as you pointed out in formulating the question, problems of child abuse are closely related with the problems of breakdown in the family generally, and so anything that we do in public policy to reverse the breakdown of the family, and that's a subject for other hearings I know, will pro tanto have some good side effects in the area of child abuse.

Beyond that, there are some things going on in the private sector, but nonetheless communitarian nature, that I think are very hopeful. A lot of hospitals have parenting programs, which I know were very useful for me when I was having my first child as sort of a resource that you could call and say, well, I have this problem, how do I deal with it and so on. There are self-starting parenting networks out there. Some of them will probably be going on line with the computer revolution. There are church-based groups. We might want to look at ways to give those kind of movements some help with block grants, though I realize there is some complex First Amendment problems that come up with the church-based ones, regrettably. But, I think as a borderline conceptual answer, the answer is community rather than State to the extent possible, always with due regard for the need to intervene in extreme cases.

Mr. CASTLE. Thank you.

Ms. Hopkins, you have 20 seconds.

Ms. HOPKINS. I think one of the things that we've really missed, and I think Anne Donnelly was really focusing on it, we have not done adequate training in risk assessment. And, the social workers, despite the training they have, they spend so much time with this therapeutic model and, in particular, and this is a touchy subject, the issue of sex molestation. It's estimated between 11 to 15 percent of all the cases in San Diego County, it's estimated it absorbs 85 percent of the resources. And so, the children who are being physically abused may not be being caught. There are specific risk assessment procedures that are in place which if they are followed every single time I think would prevent the kind of case that Congressman Hutchinson was talking about.

Mr. CASTLE. Thank you.

I'm sorry, Ms. Donnelly, we didn't get to you. I yield back.

Chairman CUNNINGHAM. Ms. Donnelly, you can submit for the record if you'd like, and if you'd like to make a brief statement, I'm going to try and be as lenient as I can.

Ms. DONNELLY. Briefly, I think there's a lot we can do outside of government to focus on preventing child abuse. I think partnerships with governmental agencies are most often crucial. Our organization, which is national, which involves about 120,000 volunteers across the country, which is involved in putting into place support programs for new parents in hospitals across the country, something that has been proven through research to be terribly effective in preventing child abuse, is doing so as a private agency in collaboration and partnership with local, State and Federal Government, but not as a Federal Government-led initiative.

And, that is a model, not the only model, but it offers a thought about how one can proceed, but I wouldn't want to proceed without knowing that the government was there at the table as well.

Chairman CUNNINGHAM. Thank you, and before I recognize Mr. Souder of Ohio, let me recommend to all the panelists, and as well the members——

Mr. SAWYER. Sawyer.

Chairman CUNNINGHAM. [continuing] Sawyer, what did I say?

Mr. SAWYER. Souder. It doesn't make any difference, Mr. Chairman, I recognized it.

Chairman CUNNINGHAM. They are correcting my English over here. I apologize. It is Mr. Sawyer, but I came from a military background, and there's a very high rate among military for child abuse. And, the military has gone into it in depth. The problem is, is when many of the sailors, especially in the Navy, go overseas and they come back, there's a lot of problems and tension between the family, including indebtedness. And so, they have regular classes in how to be rejoined with the families and the problems that exist.

Also, Children's Hospital in San Diego works in a partnership with the State and with the services, and that has been proven very, very effective.

When I was a Commanding Officer of a squadron, there was about four different ways where a sailor didn't have to go through the chain of command and see the Command Master Chief and go all the way through the chit process, where they could walk right through my door. One of those was anything that was racial. Another one was any use of drugs within the command, and the other one was any spousal or child abuse. And, that person did have immunity, but I was able to control that as well in qualified immunity, but I would recommend that we look at those directions.

And, Mr. Sawyer, I recognize your five minutes.

Mr. SAWYER. Thank you, Mr. Chairman. It's ironic, with a name like Tom Sawyer, it attracts some attention in one place or another.

Chairman CUNNINGHAM. I'm thinking of J.B. Souder, I'm sorry.

Mr. SAWYER. Yesterday, the Executive Director of a runaway child shelter from Minneapolis walked into my office, introduced himself as Tom Sawyer, and shared a few stories about what it's like to go through life with a name like that. It's particularly important, Huckleberry Finn is a story at its core about the consequences of child abuse in a time before any of us paid attention to this sort of thing as a community. I share the frustration and humility that Representative Hutchinson shared with us, that we've heard echoed across this panel, with the difficulty in trying to effect results from the distance of Washington, DC.

When we've tried to work on many of the kinds of things that we've undertaken, in education and in other kinds of human undertakings, from this level of government, we've tried to concentrate in areas where we can be supportive of efforts that are going on at local levels and to recognize some of the failures. Some of the stories that we've heard this morning at their heart may be failures of misinterpretation at the local level.

And so, there are four areas that I'd particularly like to ask Anne Donnelly apart, I would invite the other members to respond about the potential for a national role in holding together efforts that range through four major areas. One, training and professional development for those who are in a therapeutic community, but who are charged with what appears to be a punitive kind of undertaking. Second, beyond professional development in that community, the kind of research that we need to conduct, not only to understand the long-term events that follow particular kinds of intervention case by case, but also, thirdly, to provide longitudinal tracking in a larger sense nationally across the country, particularly, in terms of the enormous increase in mobility among families often those who are more involved in child abuse circumstances. And then finally the fourth element, if you could expand on the kind of interagency and interjurisdictional cooperation, the kind of consortia that might serve well, that might be encouraged and supported from the Federal level but carried out locally.

Ms. DONNELLY. Good.

It seems to me that there's a lot that the Federal Government can do to facilitate the work of the States. It doesn't make sense for every State to do research on a question for which they need an answer, if all the other States, or many of the other States, need the answer as well.

There actually is existing, and it can always be updated, a national research agenda that was established through the National Academy of Sciences, and that research agenda, as supplemented and changed over time, is something that the Federal Government can play a major role in helping the country to move forward on, both by funding research and by playing a role and making sure that as universities and others are engaged in research that knowledge is pulled together, and then made available to States and local communities and private agencies like my own. So, that's one central role.

I think the same would be true with respect to training and kind of overall supervision issues with respect to professionals in the field. Every State doesn't need to develop its own curriculum for children's protective service workers, the Federal Government can play a role in making sure such curriculum and training sessions and conferences are established, and find ways to allow the States to participate.

Finally, with respect to the issue of interagency cooperation, child abuse is a very complex problem. This is not just a social service problem. It involves education, health and a variety of other agencies at the State and local level, as well as at the Federal level. To treat it categorically often gets in the way of doing the very best thing for families where abuse has happened.

The Federal Government can play a role, both in terms of the way in which it creates funding streams, but also in terms of the way in which it interacts with States in ensuring that regulations don't get in the way of sensible service delivery to families. And, you know, there's a whole book one could write about that. There are innumerable problems, but I think it's a critical role for the government at the Federal level to play.

Mr. SAWYER. Thank you, Mr. Chairman. If the others would like to comment or respond in writing, I'd be satisfied with that as well.

Chairman CUNNINGHAM. I thank the gentleman from Ohio, Mr. Tom Sawyer. Thank you. It's pretty close to Tom Sawyer.

And, I recognize Mr. Greenwood from Pennsylvania, and Mr. Engel from New York is on deck.

Mr. GREENWOOD. Thank you, Mr. Chairman.

Just a comment I would like to make, and that is that I think we need to recognize that although there are particular dysfunctions in families in our society in the modern time that may not have existed in other times, child abuse has been with us since the dawn of man all over the world, all throughout history, and for most of our history and in most of the world today it's a secret, dirty little habit that happens in the families and nobody is there to protect the children.

We, in our society, have struggled mightily with this responsibility to go in and protect children, and this is not a perfect world. And, as much as we must strife day, after day, after day to make sure that we don't over-triage and invade Ms. Clark's home, and that we don't under-triage and fail to find the real serious problems, we have to be careful never to throw out the baby with the bath water so to speak here and back away from this system because it's problematic.

So, I want to insert that for whatever reason.

I'd like to address a question, I'm sorry, to Ms. Donnelly. When you, in your testimony, made reference to legitimate Federal functions, you talked a lot and you were just—in answer to Congressman Sawyer's question, talking about research and collaborating between agencies and so forth. I'd like you to continue along that line. What is the state of nationally directed child abuse research? What is the state of interstate collaboration? I was very active in the legislature, and the National Conference of State Legislators, and the American Legislative Exchange Council. There's the National Governors Association. Is there a gap here? Is the Federal Government not doing enough in the way of research and dissemination of information?

Ms. DONNELLY. In my view, yes. If you were to look at the National Academy of Sciences' agenda for research and what a group of well-known researchers say we currently know about the problem and what we don't know, I think all of us should feel a tremendous burden to try and improve that knowledge base. It does not make sense for us to be spending $3 billion a year and not knowing how best to spend it so it really is effective and has the kind of outcomes we want, which are to protect children, and protect families, and ameliorate the scars of abuse. It doesn't make sense for us to look at three children a day dying from abuse and realize that our knowledge about how to prevent those kinds of occurrences could be increased dramatically if we would put more targeted research dollars into those kinds of questions.

Even as I present to you numbers, like there were three million reports of child abuse last year and one million confirmed and three children die a day, those numbers are based on reports coming into the system. They are not really an accurate picture of what's happening out there. And, as we've heard, all those reports don't necessarily reflect the reality of what's going on within families.

So, there is a terrific need for us to improve our knowledge about this problem, even though we know a lot more now than we did two decades ago. And, I think there's a very clear need for a variety of agencies within the Federal Government to play a role in furthering that research agenda.

With respect to the issue of interagency collaboration, there is, among other things, at the Federal level an interagency task force that brings together people from a variety of different departments and agencies within those departments to look at ways in which they can collaborate.

My own sense is that that's a nice beginning and there's a tremendous amount more that can be done, both at the Federal level, but also, ultimately, at the State and local level. If you are in a local program, trying to help families, you increasingly encounter barriers in terms of funding streams. If a family is on food stamps and now they need some social services, they may not qualify, even though they qualified for your program in the first place, because of various qualification requirements, and because these dollars come out of different agencies.

So, the need to establish better interagency collaboration, particularly with a complex issue like this, is very high, and I think there's clearly a role for the government to play starting at the Federal level to at least model how one can do that and to loosen up on some regulations so States can do it as well.

Mr. GREENWOOD. I still have a few seconds, I guess. When I was in the State legislature, I used to participate in the Children's Defense Fund conferences, and part of the time was spent coming to Capitol Hill and lobbying Congress for more money for programs. And, I used to say, my goodness, Congress is broke, we shouldn't be lobbying them for money, there should be 50 Children Defense Funds in the States and you should be lobbying your State legislatures. And, I see that your program is out in all 50 States. In maybe 30 seconds or less, can you just tell us what the experience has been like lobbying State legislators for better programs for children?

Ms. DONNELLY. It's been very difficult. I think everybody is sensitive to the needs of children. I think lawmakers, just like the general public, are concerned about this issue and want to do more, but it is very hard to ensure that the right kind of dollars are targeted in the right kinds of ways at the State level and in local communities, just as it is at the Federal level.

You know, my passion is focusing on prevention. It is very difficult to find any ample amount of steady State dollars to ensure that good prevention programs are put into place on a consistent basis. You can find moneys for a pilot program that lasts three years for 100 families, but that hardly addresses the underlying needs there. So, it's hard work at the State level, as well as at the Federal level.

Mr. GREENWOOD. Thank you.

Thank you, Mr. Chairman.

Chairman CUNNINGHAM. Mr. Engel was called to a vote. He did say that he wanted to ask a question. Mr. Souder passed, and he would be the last questioner. If the other panelists would like to comment for a moment on any of the questions, I will do so until Mr. Engel comes. He will be the last questioner, and then I'd like to move to the third panel to make sure we have adequate time for that panel.

Ms. Clark?

Ms. CLARK. Yes. Mr. Greenwood mentioned throwing the baby out with the bath water. Well, we have to realize, too, the bath water isn't worth keeping as well. I appreciate what Ms. Anne Cohn Donnelly says about prevention, but what concerns me when the word prevention is invoked is that sometimes this prevention hand in hand with government turns into a coercive type of situation.

I heard one woman in my area describe a hospital system where they send people into the hospitals and they observe people with their children, and then when they see families that are struggling they go to them and offer their services. Well, several questions came to my mind. Who is doing this type of observation? How are they trained? What is it that they are observing? How do they define struggling? And, if this struggling family does not want to accept these services, what happens then? Are they turned over to CPS and investigated? And often, that's what does happen.

Mr. WAGNER. Yes. I'd like to pick up on Mr. Sawyer's point number one about——

Chairman CUNNINGHAM. Mr. Wagner is recognized.

Mr. WAGNER. I'm sorry, I thought the time had passed. Training for those in the therapeutic community, Douglas Besharov, who is recognized across a very wide spectrum of opinion as one of the, perhaps, the leading expert on child abuse in our country, has pointed out in one of his many articles on it that social workers who work in child protective services are in a virtually unique hybrid situation in between social work as traditionally understood and criminal law enforcement. And, part of the nature of that hybrid situation is that they dispense penalties and exercise powers that are draconian in nature.

And, I think that the type of training that is most needed there is precisely training in how to handle that kind of truly awesome power, and how to do so in a manner that is respectful of our great tradition of due process and individual rights.

Chairman CUNNINGHAM. Does anyone else seek recognition? What I'm going to do is move on. Would you like to say something?

Ms. HOPKINS. I just have one comment, in reference to something Ms. Donnelly said. Yes, there is money going into research, but I would question what kind of research it is, and I think there's a need for research in more areas of child suggestibility, more areas that have to do with the kinds of things, the problems that you are seeing, that your constituents are bringing to you.

The other thing I would like to say that is in giving block grants, it would free the States to put the kind of money into family preservation and prevention programs such as Ms. Donnelly is mentioning, and which is a constant complaint that we heard, that the States would like to have more money available to them for those specific programs.

Chairman CUNNINGHAM. I thank the panel. I thank you for coming, and if any of you would like to submit to us, even a bulletized, you know, just with highlighted bullets on what some of those recommendations or because I know members on both sides of the aisle are looking—I never thought of a triage, but there is a triage and a delta between the two. And, I know I don't know all the answers. However we need to effect the best method of both of the problems we would like to solve. And I would welcome bulletized or white papers from each of you on what you would recommend.

Thank you.

If panel three would standby. I know Mr. Goodling wanted to introduce the members. Okay. The third panel of witnesses will discuss child care issues with the subcommittee. Please remember to keep your opening statements, and it's scheduled to end at 12:15 p.m., I will stay a little longer if it's necessary for the Members.

The first panelist is Ms. Rebecca, nickname Missie, Kinnard. Ms. Kinnard is from York, Pennsylvania, and is represented in Congress by our full committee's able Chairman, and Majority Member of our subcommittee, Congressman Bill Goodling. Ms. Kinnard is a hard-working mother of six children, today that is amazing, you are an ace, and needs to use daycare facilities for her children in order to maintain her employment. It is important that we consider the experiences of people like her as well as we debate child care reform.

Ms. Jane Ross is Director of Income Security Issues at the General Accounting Office. She will present the findings of a recent GAO report that discusses daycare programs.

Ms. Patty Siegel, Ms. Siegel comes to us from San Francisco in the great Golden State, where the 49ers just wamped up on my San Diego Chargers, where she is Executive Director of California Childcare and Resources and Referral Network.

We welcome the panelists, and I would remind the panelists and the committee, the green light is four minutes, the gold light is one minute, and I'm going to try and hold Members a little closer to the red light. In your testimony, if someone goes—once you get to the red light, if you could sum up in one minute.

And, I'm sorry, Mr. Hollis, Bob Hollis, from Crispus Attucks. I didn't have you down here, Bob, and we welcome you.

And, Mr. Goodling did say that he would like to make some comments when he is able to return. He's tied up in a mark-up right at the moment.

We'll start off with Ms. Kinnard, recognized close to five minutes.

STATEMENT OF REBECCA KINNARD

Ms. KINNARD. I was asked to come here today and speak on the importance of Subsidized Child Day Care Programs. I am a 43-year old mother of six children. Five of my children are of daycare ages. In order for you to understand the importance of child care services to me, you must first know some things about me.

On August 28, 1991, after being away for 20 years, I had to come back to York, Pennsylvania. I had to come home. My returning home was not a pleasant thought to me. I felt that I was coming home a failure. I was not married, I had five small babies, and the man that I thought I would grow old with was now a victim of drug addiction. My children and I were victims of physical and verbal abuse. In order to break the vicious cycle of abuse, I had to come back to York. I wasn't strong enough to go anywhere else.

Upon arriving in York, I had to make some very definite decisions as to how I could take control of my life. I knew I wanted to do the right things for myself and my children. I was determined to give my babies a chance at life. First, I had to define my responsibilities to myself and my children. I figured this would entail our spiritual, physical, financial, educational, mental and emotional well-being. My first step was to take my children's father to court and make him help be responsible for the financial raising of our children. By doing this, I was able to keep my children from having to get cash assistance. They did not have to be welfare recipients. We did receive the food stamps and the medical card, though. Then, I enrolled in a six-week motivational class to help boost my self-confidence and esteem. I had to get a job. I found out that I was eligible for child daycare services and went to the Welfare office and signed up in their New Direction Program, part of their Employment and Training Department. My next step was to enroll in a local business school for 15 months, taking a computerized office management course. Through the New Direction Program, I was still eligible for subsidized daycare. Upon completion of my courses, I took a part-time job at a telemarketing company. I didn't like the job, but it felt good knowing that I was doing something to help raise my babies.

In May of 1994, I became a Crispus Attucks employee. I was hired on as part time, but worked 40 hours plus until August. Due to lack of funds, I got laid off, but I wanted to keep working and I made up my mind that I would keep myself and my children off of the welfare as long as I was physically able to. In September, I was offered another position. Now I'm working as a VISTA volunteer. I'm still working at Crispus Attucks, and I know that one day I will have a good paying job. I am volunteering my services to my country, trying to pay them back for the help that was given to me and my babies. I'm volunteering my services to my community, gaining experience and working my way up the ladder of success.

Please, when you consider how I have been helped, please consider how you have helped others. As of mid-January, the approximate numbers of families being served by the Subsidized Child Day Care Programs was 343. The approximate number of children being served was 550. These numbers just reflect York County, but remember that at the same time there are about 224 families still on the waiting list and 338 children still needing daycare services.

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I would like to also add that all I want is what you wanted for your children, I want to give my children a chance of life, I want them to be educated, I want them to be viable, positive, committed children to our country. Without these services, I'm almost at the end of my goal, I know that I will be somebody. I will have a good paying job, and my children will be educated. But, without these services, there will be others that did not have the chance to take use of the programs that are available out there.

And, thank you very much.

Chairman CUNNINGHAM. I thank you, Ms. Kinnard, and I thank you for your timeliness also. And, I think you will be somebody. I thank you.

[The prepared statement of Ms. Kinnard follows:]

COMMITTED TO COMMUNITY

Crispus Attucks Association, Inc.

REPORT

for

Commattee on Economic and Educational Opportunities
Subcommittee on Early Childhood Youth & Families
U.S. House of Representatives

Rebecca (Kissy) Kinnard.
Crispus Attucks Association, Inc.
Early Learning Center. Parent

January 27, 1995

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Chairman CUNNINGHAM. Let me properly introduce Bob Hollis, and I didn't have it before me, but he's the Daycare Administrator of Crispus Attucks Center, York, Pennsylvania, which provides daycare to Ms. Kinnard's children and we appreciate it. And with that, I would like to go to Ms. Jane Ross, recognized for five.

STATEMENT OF JANE ROSS, DIRECTOR, INCOME SECURITY ISSUES, GENERAL ACCOUNTING OFFICE

Ms. ROSS. Mr. Chairman, and Members of the subcommittee, thank you for inviting me here. I want to talk a little bit about our current system of childcare, and how the subsidy programs affect low-income working mothers.

As you know, childcare costs are a significant portion of most low-income working families' budgets. If you are a poor family, you may spend 25 percent of your income on childcare.

Given costs of this magnitude, it is clear that for most low-income mothers their decision to work depends, at least in part, on how much money they'll have after they pay for childcare. Clearly, childcare subsidies can reduce the costs of childcare and dramatically increase the employment of low-income mothers.

You asked us to address the role that affordable childcare plays in helping mothers enter and remain in the work force. Today, I'll talk about two points in particular, first, how current Federal programs can create problems for low-income mothers who are attempting to work, and second, what kind of factors should be considered if you are thinking of consolidation of the programs, the pros and cons of consolidation.

Let me tell you briefly what we found. First, the categorical nature of childcare subsidy programs creates service gaps that reduce the likelihood that low-income mothers will work. The fragmented nature of the childcare funding streams produce unintended gaps in services which limit the ability of low-income families to achieve self-sufficiency.

Second, we found that consolidation of these programs could be the remedy for the service gaps that trouble mothers, childcare providers and program administrators alike. However, there are some issues that need to be addressed in developing a consolidated program.

Let me just set the stage a little bit by recounting what these four childcare programs are. Between 1988 and 1990, the Congress recognized the importance of childcare subsidies by creating four childcare programs. In 1994, nearly $2 billion in Federal funds was available for the programs. First of all, in 1988, as part of a welfare reform proposal, childcare was made available to current welfare recipients who were working or who were in training. Secondly, another program was initiated at the same time for people who had just worked their way off welfare. A third program was enacted in 1990, to provide subsidies to working families who were at some risk of going onto welfare, and finally, as you know, the Childcare and Development Block Grant Program of 1990 was designed to provide direct support for low-income working families.

Now, although our work has demonstrated that affordable childcare is a decisive factor in encouraging low-income mothers to seek and keep jobs, the existing childcare subsidy system has problems. Ideally, what we would like to create is a subsidy system that allows families to move from one funding stream to another, with no disruption in childcare services as the family's economic situation or a parent's work situation changes. You would call these a seamless system. Seamless systems would promote the continuity of care, which is considered important as families strive for self-sufficiency.

What we found in our visits to six States is that the different requirements of the four childcare subsidy programs produce gaps in the delivery of childcare subsidies to the low-income population. Our term gap or service gap tells you what happens to a woman's childcare subsidy when her economic situation changes.

Let me take a brief minute to talk about the gap, some of the gaps that are most pointed, and then some of the issues in program consolidation.

One of the gaps that's particularly troublesome is which kinds of employment-related activities qualify a woman for childcare. Two of these four programs don't allow you to look for a job and get subsidized childcare during that time.

Now, losing jobs and changing jobs are common events, and childcare is just as essential when you are looking for a job as when you are holding down a job. So, if you lose a job, you may be forced back onto childcare, just in order to get the—I'm sorry, back onto welfare in order to the get the childcare to look for a job again.

So, those kinds of program rules make it very difficult for a woman to work towards self-sufficiency. In another program, the program lasts for only 12 months, whether you earn more at the end of the 12 months than you did at the beginning or not.

When it comes to issues of how you would put these programs together, if you want to more effectively use available Federal funds for childcare subsidies, these programs—these four subsidy programs could be candidates for consolidation. Such an approach raises a number of issues, both benefits and cautions. On the benefit side, the States would be able to be more flexible about deciding who they were going to serve, tailor their childcare assistance programs to their particular mix of low-income families. However, there are cautions. For example, some groups will call for maintenance of effort, so that States don't take their money out of the system and just use the Federal funds that might come in a consolidated grant. There's also an issue about allocating funds, do you want to use the funds that were available in the past year, or do you want to talk about some other formula.

These are just a few of the things that would need to be talked about. We at GAO would be glad to work with the subcommittee to deal with other issues related to consolidation or to present this information more fully.

Thank you.

Chairman CUNNINGHAM. Thank you, Ms. Ross.

[The prepared statement of Ms. Ross follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Early Childhood, Youth and Families, Committee on Economic and Educational Opportunities
House of Representatives

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CHILD CARE

Narrow Subsidy Programs Create Problems for Mothers Trying to Work

Statement of Jane L. Ross, Director,
Income Security Issues
Health, Education, and Human Services Division

GAO/T-HEHS-95-69

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss our work on the delivery of federal child care subsidies to low-income families.[1]

Child care costs are a significant portion of most low-income working families' budgets. They consumed as much as 27 percent of monthly income for families with incomes below poverty level who paid for child care in 1991, compared with 7 percent for families with incomes above poverty. Because most mothers need child care while they work, their decision to work depends, at least in part, on how much money they will have left after they pay for child care. Economic theory suggests that reducing mothers' child care costs will increase their probability of working. Our own recent analysis shows that subsidizing child care costs could have a dramatic effect, particularly on the employment of low-income mothers. More specifically, our work predicts that providing a full subsidy to mothers who pay for child care could increase the proportion of poor mothers who work from 29 to 44 percent.[2]

Recognizing the importance of supporting low-income families in their attempts to become or to remain economically self-sufficient through employment, you asked us to address the role that affordable child care plays in helping unemployed mothers enter and remain in the work force. Today, I will focus my discussion on (1) how current federal programs create service gaps for low-income mothers attempting to work and (2) issues needing consideration as consolidation of the programs is weighed as a means of closing those gaps.

In summary, we found that the categorical nature of child care subsidy programs creates service gaps that diminish the likelihood that low-income mothers will work. The fragmented nature of the child care funding streams, with entitlements to some client categories, time limits on others, and activity limits on still others, produces unintended gaps in services, which limit the ability of low-income families to achieve self-sufficiency. Moreover, as states deplete funds for welfare recipients, we found that they turn to funds originally targeted for the child care needs of the working poor, putting them at greater risk of welfare dependency.

In considering consolidation of these programs as a remedy for the service gaps that trouble mothers, child care providers, and program administrators alike, some important issues need

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[1] Child Care: Working Poor and Welfare Recipients Face Service Gaps (GAO/HEHS-94-87, May 13, 1994).

[2] Child Care: Child Care Subsidies Increase Likelihood That Low-Income Mothers Will Work (GAO/HEHS-95-20, Dec. 30, 1994).

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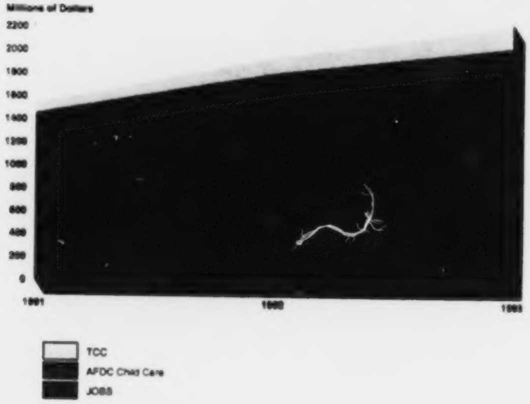
deliberation. For example, trade-offs need to be weighed between state flexibility to determine whom to serve with subsidies and congressional interest in accountability for how federal money is spent and for positive program outcomes.

Our findings are drawn from studies we conducted over the past several years on the delivery of child care programs, as well as ongoing work. In particular, to study how well the four major child care subsidy programs are working together, we visited and studied their operations in depth in six states with large welfare caseloads--California, Illinois, Massachusetts, Michigan, New York, and Texas. See appendix I for a list of related GAO products.

BACKGROUND

Between 1988 and 1990 the Congress created four child care programs for low-income families, and in fiscal year 1994 nearly $2 billion in federal funds was made available for these programs. By including child care in the Family Support Act of 1988 (FSA), the Congress acknowledged the importance of child care to helping welfare recipients obtain employment, leave welfare, and stay employed. Thus, FSA requires states to guarantee child care to employed recipients of Aid to Families With Dependent Children (AFDC) and to participants in the Job Opportunities and Basic Skills Training (JOBS) program as well as other AFDC recipients in state-approved education and training. In addition, FSA requires States to guarantee a year of Transitional Child Care (TCC) to AFDC recipients after they leave the welfare rolls as a result of increased earnings from employment. Attesting to the critical role these child care subsidy programs have played so far, figure 1 shows that total expenditure growth for those programs has far outstripped growth in the JOBS program itself.

Figure 1: Total Federal and State Expenditures for JOBS, AFDC Child Care, and TCC (Fiscal Years 1991-93)



A third program, the At-Risk Child Care program, was created in 1990 in recognition of the importance of providing child care subsidies to working poor families. This program is reserved for working families not currently receiving AFDC who would be at risk of becoming eligible for AFDC without such subsidies. Finally, the Child Care and Development Block Grant of 1990 was designed to provide direct support to low-income working families. Three of the four programs, all but the Block Grant, require states to appropriate state dollars in order to claim federal matching funds.

CURRENT PROGRAMS CREATE SERVICE GAPS

Although our work has demonstrated that affordable child care is a decisive factor in encouraging low-income mothers to seek and keep jobs, the existing child care subsidy system has problems. We found in our visits to six states that the different federal program requirements of the four federal child care subsidy programs, coupled with resource constraints in the states, produce gaps in the delivery of child care subsidies to the low-income population. Specific service gaps we identified stemmed from program differences in (1) categories of clients who can be served,

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(2) limits on employment-related activities, (3) limits on income eligibility, and (4) time limits on child care subsidies.

Gaps Result From Categorical Eligibility

Despite similarities in characteristics among low-income families, whether on or off welfare, the patchwork of child care funding makes fine distinctions among categories of families. The current system of child care guarantees subsidies to AFDC recipients participating in employment or state-approved education and training activities as well as to employed former AFDC recipients, but not to working poor families outside the AFDC system. Yet, a welfare recipient's economic status may differ little from a low-income, working nonwelfare recipient's. In fact, some welfare recipients work but do not earn enough to make them ineligible for welfare, and welfare recipients may cycle on and off assistance a number of times before leaving welfare permanently.

Moreover, the categorical nature of the child care programs does not recognize that disruptions in important services such as child care can result in economically marginal families losing jobs and, if eligible, being forced to rely on welfare. Movement toward self-sufficiency tends to be sporadic, and individuals who have worked their way off welfare generally are still low income. In fact, some may be economically worse off than they were on welfare since they now face work-related expenses that can include child care. Consequently, the separate programs may be distinguishing between the same individuals at different points in their journey from welfare to economic self-sufficiency.

Gaps Result From Limits on Employment-Related Activities

Although At-Risk Child Care and TCC statutory language expressly provides for child care subsidies during employment, Department of Health and Human Services (HHS) regulations strictly interpret the statute and do not specifically allow the use of those funds to subsidize child care during a period of job search--when someone has lost a job and is looking for another one. Officials from five of the six states[1] we visited told us that these program funds cannot be used to subsidize child care during a period of job search or other break in employment unless employment is scheduled to begin. Consequently, when an employed mother becomes unemployed while her child care is being subsidized by At-Risk Child Care or TCC funds, the child care subsidy is generally lost, and the children have to be pulled out of care unless the mother or another funding source can pay the entire cost of care.

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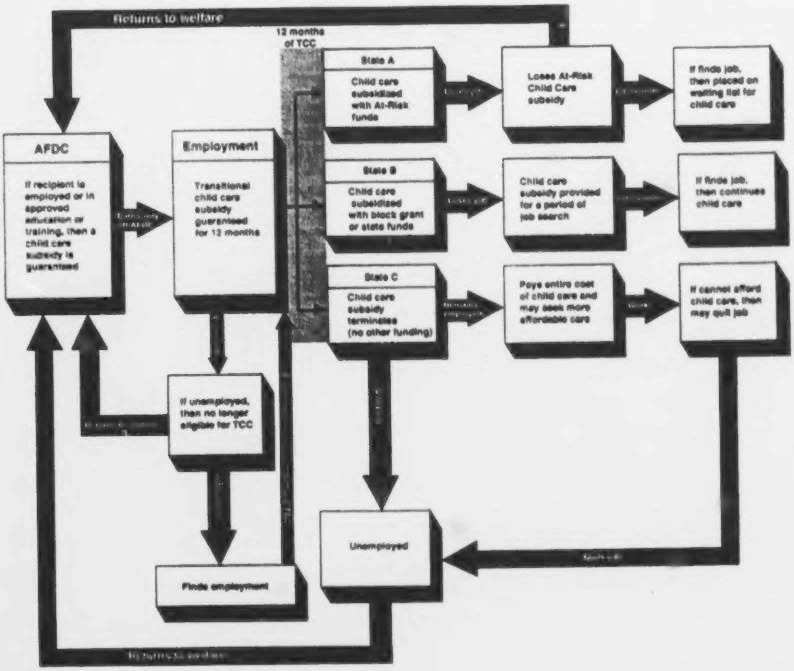
[1] The only state we visited that did not report a concern over At-Risk Child Care was Michigan, which did not plan to participate in the program until 1994.

Should a mother subsequently find employment, in many cases she will go to the end of a waiting list for subsidized child care and continue to pay the full cost of the care. Should these circumstances force the family onto welfare, the mother would be eligible again for some form of child care assistance once a job was found or the mother began to participate in employment-related activities. Figure 2 is a hypothetical flow of low-income families through the subsidized child care system and demonstrates possible outcomes of the different rules among child care programs. Note how many paths may lead a family back to welfare.

Figure 2: Hypothetical Client Flow Through Subsidized Child Care System


Returns to welfare
12 months of TCC
State A
Child care subsidized with At-Risk funds
Loses At-Risk Child Care subsidy
If finds job, then placed on waiting list for child care
AFDC
If recipient is employed or in approved education or training, then a child care subsidy is guaranteed
Employment
Transitional child care subsidy guaranteed for 12 months
State B
Child care subsidized with block grant or state funds
Child care subsidy provided for a period of job search
If finds job, then continues child care
State C
Child care subsidy terminates (no other funding)
Pays entire cost of child care and may seek more affordable care
If cannot afford child care, then may quit job
If unemployed, then no longer eligible for TCC
Finds employment
Unemployed
Returns to welfare

Because many of their clients frequently move in and out of employment, program providers told us that using At-Risk Child Care dollars while clients are employed means that those clients will lose child care when they lose a job and begin a job search. The lack of child care makes looking for work more difficult, especially for single parents, and, program providers fear, puts low-income families at greater risk of becoming welfare recipients. In California, for example, we were told that local child care providers who were subsidizing low-income families with state funds did not want to use these funds to claim federal At-Risk Child Care money, even though it would substantially increase the funding pool available for child care. The reason: under the At-Risk Child Care program in California, clients lose their child care subsidy within 10 days of losing their job. In contrast, California's state child care program permits 60 days of child care during a job search period.

California child care program administrators and providers told us that their clients regularly move in and out of employment and that it is important to maintain the continuity of child care after they leave a job and during periods of job search. These providers prefer to serve well and consistently those clients already in their system rather than serving larger numbers of clients in a piecemeal fashion. Similarly, child care administrators in New York and Massachusetts reported that they use state funds to subsidize child care during job search periods.

Gaps Result From Limits on Income Eligibility

Other gaps result from limits on income eligibility. Because the Child Care and Development Block Grant limits eligibility to families with incomes below 75 percent of the state median income, it produces a "cliff"[4] for clients whose income rises even one dollar above this level. This cliff can produce certain work disincentives. For example, a child care worker in Michigan told us that clients reduce their hours of work as they approach the cutoff income because they believe they will not be able to pay for child care without the subsidy.

An illustration from California also demonstrates the problem of the Block Grant cutoff. The California child care program, funded exclusively with state funds, will subsidize a family up to 100 percent of the state median income, while the Block Grant subsidizes only up to 75 percent. Thus, two families in the same economic situation in California may be treated differently, depending on which funding stream subsidizes their child care.

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[4] A "cliff" exists when a small increase in income results in a large decrease in spendable income due to the abrupt termination of some benefit.

Gaps Result From Time Limits on Subsidized Child Care

TCC also presents a service delivery dilemma. At the end of the 12 months of entitlement, if a state does not have any Block Grant, At-Risk Child Care, or other funds to continue the subsidy to a client, the client must pay the entire cost of child care. This occurs even if the client's earnings have not increased during the 12 months. The result could be that the children get moved to cheaper care or that the parent quits work. Should the parent return to welfare and participate in employment or training, the family once again will be entitled to child care.

All six states we visited perceived TCC's 12-month provision of child care to be too short. They all attempt to continue to subsidize TCC families with another funding source after the 12-month limit. Three states make post-TCC clients a priority for At-Risk Child Care funds, and three states use the Block Grant. One state uses state funds for these families. However, since these funding streams are limited, states do not always have funds to continue the subsidy. Officials in three of the six states have requested, or are considering requesting, a federal waiver in order to be able to continue providing TCC for 12 additional months. .

When Texas ran out of funds to extend subsidies for former TCC families, a special waiting list for these post-TCC families was created so that they would be the first to receive additional funds when they became available. However, state officials expressed concern over what clients would do about child care in the interim. While one Texas official would like to see more TCC made available, she is concerned that this would divert the amount of state funding available to claim At-Risk Child Care funds. This could further limit subsidies for the working poor with no immediate ties to welfare.

Current System Provides Little Incentive to Serve the Low-Income Working Poor

Current rules for the child care programs described produce incentives for states to serve entitled clients first and to form waiting lists for other eligible families, that is, the nonwelfare working poor. Although child care program workers believe that the provision of child care is important to prevent low-income working families from going on welfare, these families are served, as funding permits, after states provide subsidies to entitled individuals. Clients who are guaranteed or entitled by law to receive child care benefits are placed in one category and other eligible individuals are prioritized and served as resources permit.

In most states child protective service cases[5] along with clients entitled to AFDC Child Care and TCC are in the category that will receive child care subsidies by right. Working poor, nonwelfare recipients are in the group that will receive subsidies as resources permit. For example, in Texas they are fourth in a priority list consisting of eight major client groups. In Massachusetts they are the third of three eligibility categories, and Illinois reports that it serves its nonentitled caseload in the following order: teen parents, protective services and special needs families, followed by low-income working families.

The combination of program mandates and limited resources requires states to make difficult choices that frequently result in denying services to needy eligible families. Decisions over who will receive a child care subsidy depend upon the availability of funds and the funding rules. Eligible clients are matched with funding streams that fit their eligibility status. When the funding runs out for a particular category, states terminate intake and either form waiting lists or simply turn clients away. Consequently, clients who are eligible for funds but are not entitled to them may not receive services, while individuals who are entitled to services will receive them regardless of funding source. Moreover, as states are required by FSA to increase participation in the JOBS program,[6] the competition for limited child care funds will only increase, with greater pressure to provide child care to welfare recipients.

Currently, some states are using federal Block Grant funds to meet AFDC Child Care entitlements. Although the Block Grant legislation does not prohibit assisting families on welfare, the primary goal of the Block Grant is to help working poor families afford child care. However, as states run out of money to claim federal funds, they turn to the Block Grant to meet their obligations to entitled individuals. Three of the six states we visited reported using some federal Block Grant funds to meet child care entitlements. In a recent survey of all states by the Children's Defense Fund,[7] 15 states reported using Block Grant funds to pay for child care for at least some AFDC families in employment, education, or training programs.

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[5] These are children in state custody as a result of abuse or neglect.

[6] The JOBS participation rate for mandatory participants was 11 percent in fiscal years 1992 and 1993, increased to 15 percent in fiscal year 1994, and increases to 20 percent in fiscal year 1995.

[7] Nancy Ebb, Child Care Tradeoff: States Make Painful Choices (Washington, D.C.: Jan. 1994).

ISSUES IN CONSIDERING PROGRAM CONSOLIDATION

Our work has shown that affordable child care is a decisive factor in encouraging low-income mothers to seek and keep jobs. When the Congress enacted the four child care assistance programs, it created individual programs to meet the needs of four discrete categories of low-income mothers and their children. What our research has shown is that the categories and their needs are not very discrete. One family, at different points on the road from welfare dependency to becoming a nonwelfare, working poor family, can become eligible for each of the four programs. But this can necessitate moving children from one child care provider to another as the family moves through the categorical programs. Similarly, two families whose incomes are the same can be treated differently by different child care programs, based on other categorical eligibility factors. And these categorical eligibility factors can cause gaps in child care services, which can result in loss of employment, inability to search for employment, and a diversion of subsidy funds away from the nonentitled--the working poor.

To more effectively use available federal funds for child care subsidies, while addressing service gaps and easing state and local administration of child care subsidies to low-income families, these four subsidy programs could be candidates for consolidation. Such an approach raises a number of issues that need to be considered--issues that reflect both benefits and cautions.

From a benefits perspective, consolidation could offer states the flexibility to tailor their child care assistance programs to their particular mix of low-income families. This would permit them to decide to serve well and consistently those families they accept into the system but not to serve a larger number of equally eligible families in a piecemeal fashion. States could decide which families to provide subsidies for, for how long, and during what transitional phases in their movement from welfare to work. States could eliminate the artificial categorization that currently besets the programs.

One choice they might make under this scenario could be that family income alone will be the criterion by which eligibility for child care subsidies is determined. Alternatively, where now federal legislation drives decisions about the priority groups for subsidies, consolidation could permit the states discretion regarding priority groups, based on their knowledge of their low-income populations' characteristics.

Consolidation with state flexibility would also simplify the meshing of a new, single federal child care assistance program with existing state child care assistance programs. This would facilitate state and local public administrators' goals of making the programs' rules and funding streams more seamless for clients and child care program providers, and enhancing continuity of care for the children.

Cautions about consolidation, however, are warranted. For example, some groups will call for requiring a "maintenance of effort" provision in a consolidated child care subsidy program. Without such a requirement, some states might see the new, consolidated federal program as the sum total of dollars to be made available for child care, and could divert state dollars previously used for a child care state match to other purposes. However, a maintenance of effort provision should avoid requiring a continuing state commitment at a level that penalizes states that sustained high levels of state matching funds despite the recession of the early 1990s, relative to states that did not.

A similar concern surrounds the formula for allocating a single block of federal child care funds among the states. Basing the allocation on a recent year's expenditures by the states could perpetuate lower proportions of clients served in poorer states.

In consolidating two entitlement and two nonentitlement programs[9] into one consolidated program without any entitlement provisions, there will be an overall cap on the funding. Thus, unlike entitlement programs in which all who apply must theoretically be served, a consolidated, capped program could deny services to otherwise eligible families at some point during the year, after the cap is reached.

Another issue concerns including too much state flexibility regarding reporting and accountability for results. As an example, beyond requiring states to report the number of children served by a child care subsidy program, information may be needed on (1) the number of subsidized families leaving welfare, (2) the length of time they remain subsidized and off welfare, (3) and the number who return to welfare within some number of months after subsidies terminate.

Any consolidation of child care programs may need to be done in concert with developments in the consolidation of cash welfare programs. This raises questions, including whether participants "entitled" to JOBS funding who would otherwise be mandatory participants in a JOBS activity (education, training, and so forth) can be required to participate if the state has run out of its capped allocation of child care funding.

Finally, welfare reform legislation may require significant additions to the numbers of clients mandated to participate in education and training, or to work. Under this scenario, and with a consolidated, capped allocation of child care funding, states could again feel compelled to divert most child care subsidy dollars from the working poor to AFDC/JOBS clients.

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[9] JOBS and TCC are uncapped entitlements to individuals. At-Risk Child Care is a capped "entitlement" to states. The Block Grant is a set annual allocation to states.

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Thank you Mr. Chairman. That concludes my statement today. I would be happy to answer any questions.

For more information on this testimony, please call Lynne Fender, Assistant Director, at (202) 512-7229. Other major contributors include Margaret Boeckmann, Senior Social Science Analyst, and Alicia Puente Cackley, Senior Economist.

RELATED GAO PRODUCTS

Welfare to Work: AFDC Training Program Spends Billions, but Not Well Focused on Employment (GAO/T-HEHS-95-51, Jan. 10, 1995).

Child Care: Child Care Subsidies Increase Likelihood That Low-Income Mothers Will Work (GAO/HEHS-95-20, Dec. 30, 1994).

Welfare to Work: Current AFDC Program Not Sufficiently Focused on Employment (GAO/HEHS-95-28, Dec. 19, 1994).

Family Child Care: Innovative Programs Promote Quality (GAO/T-HEHS-95-43, Dec. 9, 1994).

Child Care: Promoting Quality in Family Child Care (GAO/HEHS-95-36, Dec. 7, 1994).

Early Childhood Programs: Multiple Programs and Overlapping Target Groups (GAO/HEHS-95-4FS, Oct. 31, 1994).

Child Care: Current System Could Undermine Goals of Welfare Reform (GAO/T-HEHS-94-238, Sept. 20, 1994).

Families on Welfare: Sharp Rise in Never-Married Women Reflects Societal Trend (GAO/HEHS-94-92, May 31, 1994).

Families on Welfare: Teenage Mothers Least Likely to Become Self-Sufficient (GAO/HEHS-94-115, May 31, 1994).

Families on Welfare: Focus on Teenage Mothers Could Enhance Welfare Reform Efforts (GAO/HEHS-94-112, May 31, 1994).

Child Care: Working Poor and Welfare Recipients Face Service Gaps (GAO/HEHS-94-87, May 13, 1994).

Infants and Toddlers: Dramatic Increases in Numbers Living in Poverty (GAO/HEHS-94-74, April 7, 1994).

Child Care Quality: States' Difficulties Enforcing Standards Confront Welfare Reform Plans (GAO/T-HEHS-94-99, Feb. 11, 1994).

Self-Sufficiency: Opportunities and Disincentives on the Road to Economic Independence (GAO/HRD-93-23, Aug. 6, 1993).

Child Care: States Face Difficulties Enforcing Standards and Promoting Quality (GAO/HRD-93-13, Nov. 20, 1992).

Welfare to Work: Implementation and Evaluation of Transitional Benefits Need HHS Action (GAO/HRD-92-118, Sept. 29, 1992).

Mother-Only Families: Low Earnings Will Keep Many Children in Poverty (GAO/HRD-91-62, Apr. 2, 1991).

Welfare: Income and Relative Poverty Status of AFDC Families (GAO/HRD-88-9, Nov. 4, 1987).

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Chairman CUNNINGHAM. Ms. Patty Siegel, and then I'll go to Mr. Hollis.

STATEMENT OF PATTY SIEGEL, EXECUTIVE DIRECTOR, CALIFORNIA CHILD CARE AND RESOURCES AND REFERRAL NETWORK

Ms. SIEGEL. Thank you.

Good morning, Congressman Cunningham, and I wish your committee and everyone here the success and drive of the 49ers, as we tackle the real challenge of childcare issues for the working corps and unemployed parents.

Chairman CUNNINGHAM. It cost me a case of avocados.

Ms. SIEGEL. I'm Patty Siegel, and I'm the Executive Director of a statewide organization in California, which for the past 15 years has helped thousands and thousands of parents, all types of parents from every income level, find and access the safe, reliable childcare that every one of us who is a parent wants for our children.

In my written remarks, I sort of describe for you my own personal journey. I began this as a parent 23 years ago of very young children, three under three, two of them being twins, and I had the challenge, although I was married to a teacher and had a part-time teaching position myself, of finding good quality care for my children. I wasn't eligible or asking for any type of State assistance, but the fact is, it was really hard to find a good caregiver who would take all three of my children, especially those lively twins.

Well, here I am 23 years later working with a State network that started on my kitchen table with a little file box, because when I had a waiting list for the little co-op that I ultimately started, I couldn't bare to have everyone on the waiting list, because every parent on a waiting list for childcare is a parent like Ms. Kinnard, who may not be able to work if they don't have access, they need it, to safe reliable care. So, being a sort of "do it" kind of person, I organized Folks by Neighborhood, but it grew, and grew and grew, and I can tell you that the complexities of the childcare world now in 1995 are much greater than they were as Ms. Ross has demonstrated in 1972.

As the childcare system in the United States has grown, we've had the privilege in R&R to really watch and to be, in a sense, the seamstresses who have tried to weave together, you called it, I believe, this morning, Mr. Cunningham, a jigsaw puzzle, but actually I've always called it a patchwork quilt, sort of masculine/feminine terms, and I'm actually the one who coined the original term of what we need is a seamless system, because, in fact, what we try to do at the local level in Childcare Resource and Referral Agencies is piece together what are sometimes the disparate eligibility guidelines and sort of contradictions that occur from Federal policies that haven't evolved in any particular united way, but I want to tell you that we're getting much closer to a unified and really cohesive system.

Well, what I'd like to do today is share with you just a few examples of parents that we hear from on a daily basis, many of them from your own district, one from Mr. Riggs' district, and I'd like to start with one from San Francisco, because I had quite a problem getting my packets that are in a box over there that I hope Erica will share with all of you from Federal Express, and in an effort Saturday night, I might add a tearful effort, to convince a tracing agent, Ms. Nicole in San Francisco, to please find my box, I shared with her that I was going to a childcare hearing before Congress. And she said, "You are? Well, let me tell you about my problem."

And, briefly, Nicole works the middle shift at Federal Express as a tracing agent, helping all of us who lose those things find them, and Nicole shared with me that she has very good childcare but it's real expensive. She pays $76 a week. It's her minister's wife, who is a licensed family daycare provider who cares for her son while she works that late shift, but she's been on the waiting list for subsidized childcare for a little help, as she said, "I don't need all of it paid for, I just need enough so I can quit my second job at the Bank of America every morning, because frankly, Ms. Siegel, I'm getting really worn out."

She wanted to know what her chances would be of actually making it into the system, or getting to the top of the waiting list, and I had to share with her that they were extremely slender, because, in fact, in my State, which has a generous State commitment, uninterrupted since World War II in the Lanham Act that Mr. Kildee spoke about earlier this morning, we spend, and I know you know this, Mr. Cunningham, $840 million proudly for State-supported childcare services. And yet, in your own district right now there are 11,663 fully-eligible, low-income, seeking-employment families looking for childcare, waiting on a waiting list. And, guess how many slots we have even with the recent Federal expansion that many of us worked hard to achieve, we have in San Diego County a total of, with those new Federal funds, 1,646. That's a 1 in 14 odds for parents like Nicole of finding care they need to help.

I think the other parents that are on the record, you know, that are in my testimony you can read, but what I really want to emphasize to you is that when we look at the block grant, when we look at the trade-offs that States may be asked to consider, you really have to look at those odds, 1 in 14, that's going to pressure the most enlightened State official to say, my God, let's put these moneys into subsidies. But, what we may not—what we can easily lose sight of is an important protection and corner of the Childcare and Development Block Grant, one of the programs described for you, which is called the Quality Set Aside. I call it like the little island of infrastructure that attempts to hold this whole shaky, evolving childcare world together. It's the island that I live on. It's the island that 450 other childcare R&Rs live on. It's the island of childcare training. It's the island of consumer protection. It's all the pieces that it's easy to take for granted because they may seem invisible. But, in fact, we must protect those resources, and I believe they have to be designated, because the States are simply facing great odds.

One last point. As we look at the needs of the most neediest parents, those who are unemployed, and as we are tempted to block grant everything to the States with no strings attached, beware of revolving doors, because every parent who is a working corps parent, independent, which is all of our goal here, we want parents to work, they want to be independent, we want them to be independent, every one of those parents could slip off the cliff and fall back into dependency if the childcare guarantees that are currently available through things like the transitional childcare program, like that risk, and like our jobs program are lost.

So, you have a major task. I'd like to invite any member of the committee or subcommittee to visit your local childcare R&R. We'd be happy to share with you firsthand the experiences and the stories, the real parent lives, and the provider struggles that we have the privilege of documenting every day.

Thank you.

Chairman CUNNINGHAM. Thank you, Ms. Siegel, and I really wish we had more time. It's a monumental problem, and the more you get into it, the more you realize there are the problems.

[The prepared statement of Ms. Siegel follows:]

PATRICIA SIEGEL

Good morning Congressman Cunningham and members of the Subcommittee. Thank you for the opportunity to testify on my experiences with child care this morning. I am Patty Siegel, the Executive Director of the California Child Care Resource and Referral Network. The Network is a fifteen-year-old statewide, private non-profit organization dedicated to helping California parents, regardless of income, find the very best child care for their children.

I've prepared packets for each member of the Opportunities Committee, which include the parent information materials we have produced in California with funds from the Child Care and Development Block Grant, as well as materials which describe the Network's programs and our Public-Private Partnership to expand and improve the quality of child care in California.

The experiences and thoughts I will share with you today represent the last twenty-five years of my working and parenting life. I would like to begin by quickly sketching my own child care beginnings, because I believe they set the stage well for the topic you have asked me to address today: the role that affordable child care plays in helping unemployed parents enter and remain in the work force.

In 1972, as a young parent of three small children all under age three, I came to understand the challenge of finding good, safe child care. Because my work as a French teacher in a private elementary school was part time, I had the good fortune to need only part time child care. After much frustration in my search, I took the initiative, utilizing my experience as a child care worker to organize my own solution--the Yellow Garage Playgroup. This small neighborhood cooperative helped me and twelve other families in San Francisco's Inner Sunset neighborhood balance our work and family responsibilities in a safe and loving environment that helped our children grow and learn. It was a lot of work, but well worth the effort.

Before the Yellow Garage was even two months old we had a waiting list with more than 20 families. Like the unemployed and working poor parents that we are considering today, these young parents could not work without safe, reliable child care. I couldn't stand to see one parent lose employment because they couldn't find child care so I organized my waiting list by neighborhood in a file box in my kitchen and while my babies napped I did my best to connect parents to each other and existing child care centers. By the end of that year, the overflowing file box on my kitchen table has grown and become one of the country's first Child Care Resource and Referral agencies, The Childcare Switchboard-Children's Council.

Twenty-three years later, I come before you to describe what I and the 60 local CCR&R agencies who make up the California Network, and our 450 R&R colleagues across the country have since learned about the role that affordable child care plays in helping unemployed and working poor parents enter and remain in the work force. Everything we know we learned from the thousands of parents who contact our offices every day looking, often desperately, for the safe, reliable care which is the turnkey to their success in our nation's competitive job market.

What do we hear? How do we respond? And what kind of difference do federal funds, and programs make in these efforts? Many of you are parents of very young or school-age children, and I am sure you understand the formidable task of finding safe, dependable child care--even with adequate financial resources. If you're not a current child care consumer, you can get a quick window to the kinds of stories we hear in CCR&R by talking to members of your family, your staff, or the next cab driver, hotel maid, or Federal Express employee you encounter.

Just Saturday evening I spoke with a Federal Express "Tracing Agent" in San Francisco who was helping me find the box of packets that should have arrived here in Washington Saturday morning, but did not. In an effort to enlist Nicole's extra effort to help me trace the lost box I shared with her that it contained materials for a child care hearing before Congress. She was very helpful and accommodating, and at the end of our conversation, she shared with me her own child care dilemma. She's a single working parent with an eight-year-old son. She works the second-shift at Federal Express, returning home in time to spend a little time with her son in the evenings. She's very satisfied with her child care, provided by her minister's wife who is a licensed family day care provider, but the cost for "odd-hour care" is high (over $76 per week), and in order to make ends meet Nicole works a second job each morning at the Bank of America. She knew all about the Child Care Resource and Referral Agency in San Francisco--because she had been on their waiting list for the child care certificate program for eight months. She asked me if I thought there was any hope she'd ever get to the top of the list and receive some assistance paying for her child care. Unfortunately, I couldn't be too optimistic with Nicole, because the waiting lists for eligible families are very long, and in California, priority is established for the very lowest-income families.

Let's use Nicole's situation as a jump-off point for our examination of how federal child care assistance is working in California and the nation. In San Diego County alone, as of January 27, 1995, **11,663 fully eligible families** (their eligibility was determined by a child care payment specialist at the local CCR&R agency) were on the waiting list for child care assistance available from the Child Care and Development Block Grant and At-Risk Child Care Program. What are the opportunities for getting off the waiting list? Not great: San Diego County's current CCDBG and At-Risk funds provide care to a **total of 1,646 children**, making the odds of getting off the waiting list about 1 in 14!

These odds are a stark and sobering reminder of how far we have to go if we are serious in our obligation to help every family support and care for its children. And they are further amplified when one considers that the opportunity to find child care in California is *much* than most states because our long and uninterrupted history of state-supported child care, dating back fifty years, when we maintained state support for our Lanham Act centers at the end of WWII. That state investment in child care is currently $840 million. But, it falls far short of meeting current needs. This is why the advent of new federal funds for child care are so vital to us and every other state. Maintaining every cent of our current federal commitment to child care both in the CCDBG and At-Risk programs and in Transitional and JOBS Child Care is imperative, especially given the intensity of the current welfare reform debate.

Take for example, Joan, who called her local R&R in a total panic the day she got a coveted job as a sales clerk in a new Costco. (She had lined up at 2:00 a.m. and waited seven hours to get an application for the job.) She was on AFDC and thrilled when she was offered a $7.00 an hour job, swing shift, six days a week. Thrilled until she realized that without child care for her 18-month-old baby girl she would be unable to start work in three days. She had no money saved for child care, and when she spoke to Marie, an R&R parent counselor, Marie explained the Transitional Child Care Program (TCC), available to newly employed AFDC families. Marie explained how Joan could access the TCC benefit and helped Joan connect to several family day care providers who offered care during the extended hours she would need.

There's a happy "middle" to Joan's story, but a happy ending, her long-term ability to afford safe, dependable child care, depends upon the continued availability of other federal child care funds as she slowly gains self-sufficiency. Without the continued federal guarantee of TCC funding, Joan would have joined more than 11,000 other parents on the waiting list for child care services in San Diego, and would have missed her chance at a decent job at Costco. Child Care is the turnkey to employment opportunity and success for parents like Joan all over the country.

This is why we can't separate the needs of unemployed parents and working poor parents. Without child care, their economic independence becomes a revolving door, as illustrated by:

Lisa, from Humboldt County, California.
In a letter of appreciation, she tells the following story (the real math of child care and employment):

> I'm a single mom with a three-year-old who makes $6.25 an hour at a medical office. I gross about $1,000 to $1,050 a month. I take home, after taxes, about $800 a month. My rent is $332, my child care runs about $350 a month. If I didn't have help with child care I'd only have about $110 to pay bills, buy groceries and gas and whatever surprises come up for the month. At $6.25 an hour, I really couldn't afford to work and cover the cost of child care. I greatly

> appreciate the help paying for child care. My child care provider is very good and I know that my son is in a good place while I work. He learns and has fun with a good little group of kids.
>
> I'd have to try and find a job that pays quite a bit more than $6.25 an hour to be able to live. Jobs are hard to find as it is, and my skills are somewhat limited too, so my life would be a lot more stressful as a single parent than it already is. (I definitely do not want to be on welfare -- that is something I would not want to do at all.)
>
> If I had to pay for my child care by myself I wouldn't have enough money to live on and get through each month. My rent and child care costs would take more than three-quarters of my take-home pay alone. Not enough left to cover the other monthly expenses. It would be very stressful.
>
> Thank you so much for this child care assistance program. Please keep it going. As a single parent it makes all the difference in my being able to have a full-time job and feel good about myself in trying to take care of my child and myself on my own. I can't express how it's helped my situation and how much I appreciate this program.

Current federal child care programs work for Joan and Lisa, and the could work for Nicole and thousands of other parents on waiting lists: if sufficient federal funds were available to help parents pay for child care; and if in their transitions from welfare to work they don't fall off cliffs and lose what they have; and if an adequate supply of safe, affordable, accessible child care exists in the community. The IFs of child care availability, affordability, and quality are addressed in the CCDBG quality set-aside. This small but critical mass of dedicated funding is the glue and clips that holds our still-fragile child care system together. The five percent set-aside provided states with the catalyst to address and develop the essential functions necessary for a child care system characterized by parental choice:

Consumer Education/Child Care Resource and Referral:

This includes outreach to parents, which informs them about all their child care options and the availability of financial assistance, and counseling and referrals. These services help parents identify the child care provider or setting which best meets their personal needs. As Joan, Lisa and Nicole would surely tell you, CCR&R services are a vital parental link to the child care market.

Consumer Protection:
This includes accountability for basic health and safety in all child care settings – licensed or license-exempt. States have used quality set-aside funds for consumer protection. In Pennsylvania, half the child care licensing staff is paid from quality set-aside dollars. Another example is California's Trustline registry for license-exempt providers (established by legislation carried by Congressman Bill Baker when he was in the State Assembly). The **BE SAFE AT HOME AND IN CHILD CARE** poster included the gray envelope in your packets, is another example of how the quality set-aside help educate parents and providers and protect the children in their care. (These packets are given to parents when they choose a license-exempt provider, to give to their provider as a "enrollment gift.")

Recruitment and Training:
This helps to maintain and improve the fragile child care work force, where the average wage is $5.50 an hour, and one-third of all child care workers leave every year because they cannot afford to stay and support themselves and their families. (National Center for the Early Childhood Workforce) Many states have used these funds to address the urgent unmet need for infant-toddler care. (In California, more than fifty percent of all the parent requests to local R&Rs are for infants and toddlers under two years of age.)

In California, Oregon, and Michigan, to name a few, public support for CCR&R services has been used to successfully leverage private sector funds. The California Child Care Initiative Project, (described in detail in your packets) administered by the Network, has leveraged more than $6 million in corporate and private foundation funds to expand and improve the supply and quality of child care.

The CCDBG and At-Risk program have provided the incentives and funding to many states, including New Jersey, Texas, Oregon, Florida, and Indiana, to "reshape" their child care systems and make them more user-friendly and "seamless" to families. But, these efforts have required careful planning and state collaboration among and between state agencies, child care resource and referral agencies, and the parental choice certificate programs they frequently administer.

Clearly, these quality activities provide direct support for families who need and want to work. They are practical, tangible efforts to make our child care system work for parents struggling to maintain their economic independence. We are concerned that current consideration of a totally blended, homogenized Child Care Block Grant would seriously jeopardize these efforts.

Our concern stems from the real pressure and burden of the still-enormous unmet need for child care. It can drive the most enlightened state leader to make the seemingly clear choice to invest every available dollar into child care subsidies. But such simplicity fails to acknowledge the stark reality of just how hard it is to find and keep good child care.

And beyond our concern to protect these essential functions housed in the small five percent quality shelter, we are also gravely concerned about current proposals to block grant or eliminate one of the oldest, most critical mainstays of our child care system -- The Child and Adult Care Food Program. The Child and Adult Care Food Program ensures the sound nutritional status of our nation's youngest children. Consider the $450 per year, per child cost for almost 70,000 young children in Pennsylvania. For this small amount, the average child receives two meals and two snacks a day, five days a week, 52 weeks a year. This bargain nutrition program should not be merged into and possibly lost in a larger nutrition block grant. In 1995, over 2 million children benefit from this $1.5 million program, which is often the only good nutrition in their day, and thousands of home- and center-based providers depend on it as a resource that allows them to continue to care for children in a safe and healthy way.

To conclude my testimony today, I'd like to share with you a letter received by the San Diego R&R last week.

YMCA of San Diego County
Childcare Resource Service
3333 Camino del Rio South, Suite 400
San Diego, CA 92108-3839

Dear Referral Counselor Specialist:

I meant to write this letter long time ago, but I was busy with my new permanent job and there was an unexpected problem I had to deal with.

I knew I had the potential to work but "how was I able to work when I had a six month old child?" The summer of 1992 my two teenage sons baby sat for me while I worked in a major clothing store. Soon it was time for the boys to go back to school. That was the worst time in my life; even the thought of it shocks me to this day. the saddest part was of course the fact that I had to give my son up for adoption if I wasn't going to find any means. I learned about your program from a mother who had benefitted from it. The day I called YMCA/R&R, I was hysterical as the YMCA/R&R was my only option to keep my family stay together.

I can never forget what you said to me when I came over to sign the paper work. You said, "you can make it, don't worry; we will take care of your son, and good luck". Those were the words I exactly want to hear and needed from someone to say it to me. That has inspired me and help me build up my confidence. From that day on I was out looking for a job, not only to satisfy my family's need but it was that I couldn't let down the agency which has reached out to help me. And those words has got met to where I am now.

Today, I am a proud working mother with three wonderful children. Thanks to the YMCA I will even have a much better future. I would have achieved nothing without the YMCA.

Thank you.

Welfare reform may come and go, but the economic dilemmas of low-skilled single parents who have the dual responsibility of caregiving and bread-winning are every present. Child care as a work-enabling support service may be the best welfare prevention of all. Thank you for your interest and attention to the child care issues and concerns I have shared with you today. I would like to invite each of you and your staff to come visit your local CCR&R agency, and share, first-hand, the dilemmas, challenges, and successes parents in your communities face every day.

Chairman CUNNINGHAM. Mr. Bob Hollis from York, Pennsylvania.

STATEMENT OF ROBERT HOLLIS, ASSOCIATE DIRECTOR, CRISPUS ATTUCKS ASSOCIATION, INC.

Mr. HOLLIS. Chairman Cunningham, and Members of the subcommittee, I would first like to differ and offer my thanks to my Congressman, Congressman Goodling, from the 19th Congressional District, for his interest in and support of our organization. And, that comes very natural, because he's very natural with his support within our district.

I'd also like to thank you, the Members of the subcommittee, for allowing the hearing on childcare to be a prevalent issue, and I feel that the issue in my report will address that it is and should remain an ideal that is not lost in our Contract With America.

As I mentioned, my name is Robert Hollis, and for the past 20 years I've served as Associated Director of the Crispus Attucks Association, Incorporated, in York, Pennsylvania, a daycare provider for Ms. Kinnard. Our operation is a comprehensive and multi-faceted community center.

The Association serves a predominantly low-income and minority population, and we offer a full range of services. Our services, if I could summarize this rather than read it, instill within our constituents an opportunity to become self-reliant, and to break the dependency or any need to be dependent upon a dependency-type system.

In addition to our childcare center, we serve 500 other inner-city youth, and a summary of this program, what we do is we encourage our youngsters, we challenge our youth, and we build self-esteem through outcome-based programs and hold them accountable and responsible for the actions that they participate with us and the responsible behavior is an outcome that we desire them to gain.

I will not differ from reading this, because I want this point to be very clear, this great Nation can no longer accept negative lifestyles and the trends of these negative lifestyles that have affected our inner-city youth throughout this country and throughout our cities.

As an agency, Crispus Attucks has a serious commitment and a dedicated interest with these issues and any issues that deal with our children, our youth and our families.

I haven't lost sight that I have come before you to address the role that affordable childcare plays in helping unemployed parents and how these parents can continue to maintain their stake in the work force.

Prior to that, though, I think it's important that we share, or at least I recognize, that our organization, since the late 1930s, has provided childcare within the City of York, and I did say the late 1930s. Without our community, being predominantly minority, the family make-up was the African-American male, along with the African-American female, had to work to make ends meet, so childcare was necessary way before it became a national trend and issue, and we were a part of that back in the late 1930s.

We currently service and provide care for 171 children and benefit 124 families. Our early learning center has a comprehensive care package involving infant, toddler, preschool and school-aged care, and we have an educational philosophy that intends to provide professional care for inner-city youngsters within an intellectually stimulating curriculum and a safe, well-protected environment.

Ms. Kinnard has addressed how child development affects the life of a working parent. Her views clearly parallel with the views of many, many of our working corps and many of the working parents throughout our country, and definitely throughout the City of York, Pennsylvania.

Enrollment in childcare offers a parent an opportunity to take these huge strides to get away from a dependent lifestyle and enter into a dependent-free pursuit of the same dream that I have and the same dream I'm sure each of us have in this room, and that is the pursuit of happiness and a quality of life.

Through our financial encouragement, we are teaching our parents, because they are fee payers in a subsidized program, to become self-reliant, because they are, in fact, investing a part of their revenue and income into their childcare, and it helps to make the transition a little bit easier for them.

I want to share with you what Missie Kinnard would need to make in the course of a day to serve her children to receive the same care that she's receiving, received yesterday, and is receiving while she's here. She would need to make more than $10.70 an hour to pay for her $72 an hour day fee. I know Missie is not making that, and I'm sure Missie will aspire to make more than that in her lifetime, and we're not going to step in the way of that, and I know that she will reach her dream. However, that $85.60 a day that she would need to make would barely cover the cost of childcare. It would barely hit on some of the food, utilities, clothing and housing costs that she also has to endure to be a working parent.

So, no, I don't think we can cut or even eliminate any of the funding that is available to the working corps as we approach an arena that tells us that we need welfare reform, and I agree with that. We, as an agency, earmark our funding to help parents become more self-reliant, and I know that childcare cannot be removed from any vehicle that talks about the quality of life, the Contact With America.

I see my red light is on, so I'm going to skip a few pages, and I'm going to get right to my conclusion, because I think this tells it pretty much the way it is for the working parent.

Last May, a former welfare recipient successfully obtained training that prepared her for employment. Despite her lack of work experience, she was hired based on this successful training that she received. She secured childcare at the Crispus Attucks early learning center. It was the daycare center of her choice, and, in fact, the center that she attended as a young child.

She earnestly performed her duties——

Chairman CUNNINGHAM. If the gentleman could wind up.

Mr. HOLLIS. [continuing] and enjoyed the self-reliant lifestyles.

Chairman CUNNINGHAM. If you could wind up your statement.

Mr. HOLLIS. Okay. I'm closing. Thank you, Mr. Cunningham.

My point is, rather than reading it to you, the young lady did get a pay raise. She earnestly went before her employer and graciously accepted her pay raise. She was excited that she could use an additional $40 more a week and $160 more a month to do the things that the income should do to care for her family and her children.

However, on her way home from work, she realized that she no longer had that, because she had to call her R&R location in Pennsylvania, the local management agency, and report her increased earnings, which meant that she would now become a non-subsidized parent paying an additional $50 a week. And, for her to become a parent who has earned the opportunity to receive a pay raise she lost $40 a month in earnings.

Chairman CUNNINGHAM. Thank you, Mr. Hollis.

[The prepared statement of Mr. Hollis follows:]

Chairman Cunningham, members of the Subcommittee:

I would like to thank **Congressman Goodling** who represents the 19th Congressional District for his interest in and for his support of our Agency. I would like to thank you, Chairman Cunningham and the members of the Committee on Economic and Educational Opportunities and members of the Subcommittee on Early Childhood, Youth and Families of the House Committee on Economic and Educational Opportunities for inviting my comments.

My name is Robert Hollis. For the past twenty years, I have served as Associate Director of the Crispus Attucks Association, Inc. located in York, PA. Our agency operates a comprehensive, multi-faceted Community Center.

The Crispus Attucks Association, Inc. serves a pre-dominantly low-income, minority population. We offer a full range of services. All services are geared to instill self-reliance for our constituents. Services provide opportunity for individuals to focus on improving their quality of life. We place a strong emphasis on children, youth and families. We challenge our children to obtain the highest possible level of education and encourage their individual academic success. We offer services that are outcome based, and we empower our families to take charge of the quality of their life.

Crispus Attucks serves more than 500 inner-city youth offering a series of programs designed to provide our youth with responsible, positive and challenging alternatives. We encourage our youngster. We challenge our youth. We build self-esteem through outcome based programs that insist upon their responsible behavior. This great Nation can no longer accept negative life-style trends that have affected inner city youth throughout our cities. We have a serious commitment and we have a dedicated interest with issues that affect our children, youth and families.

We have been asked to address the role affordable child care plays in helping unemployed parents enter and remain in the work force. We will examine how parents make the transition among the various programs in existence, and how varying eligibility requirements potentially create service gaps for the working parents.

Crispus Attucks Association, Inc. has offered child care in York since the late 1930's. The Crispus Attucks Early Learning Center offers intellectually stimulating quality care. Service is provide to 171 children and benefits 124 families. The Early Learning Center offers comprehensive care for infant, toddler, pre-school and school age children.

The educational philosophy of Crispus Attucks Early Learning Center is to provide professional care for inner city youngsters with an intellectually stimulating curriculum in a safe, well protected environment.

Ms. Kinnard expressed how childhood development affects the life of a working parent. Missy has expressed views that parallel situations many working parents face. In subsidized child care programs, working parents participate as fee payers. Enrollment in subsidized child care provides an opportunity for parents to take a huge step toward their pursuit of dependent free life styles. Through their financial involvement, parents are encouraged to become self-reliant.

What effect does subsidized child care have upon a parent's work day? I will close later with a summary to further address this issue. Ms. Kinnard and other eligible working parents, without subsidized, affordable child care could not aspire to climb the ladder of success. Based upon current York market rates, the cost of child care for Missy's five children is $72.00/day. If Missy could be earning, and she is not, $10.70/hour, working eight hours/day, she would have gross earnings of $85.60/day. With taxes and standard federal, state, and local deductions, would her take home pay cover more than her child care? Yes it would, however, would her earnings be enough to cover other basic cost including, food, housing, utility and clothing? We are intelligent enough to appreciate the burden placed upon the working poor.

Ms. Kinnard has two school age children who are honor students. Her twin boys as well as her youngest son are developmentally above their age level. They will likely make honors when they are old enough to receive report cards from their elementary school. While she remains eligible to receive subsidized child care, the experience Missy gains through employment, is not only preparing her family to seek better opportunities and encouraging hope for a brighter future, but, the opportunity to receive subsidized child care is preparing her children to continue to break the cycle of poverty she has successfully introduced her children to. Her ability to receive affordable, subsidized child care enhances the developmental growth for her children. Subsidized child care programs give promise and offer hope to the working poor. Promise and hope so that when they successfully break the cycle of poverty it will be permanently interrupted. It is critical that we continue to take action now. We can not allow for elimination nor for reduction of effective opportunities that are now available for working parents.

If we allow systems to become too fragmented, too in-cumbersome, and too rigid we may eliminate any hope the working poor may have to free their life of welfare dependency. As an Agency committed to family self-reliance, we welcome outcome based performance indicators, and we welcome quality indicators for measuring or demonstrating how effective childhood programs are. Like Ms. Kinnard, other parents benefit: more than 70% of the school age children enrolled in the Crispus Attucks Early Learning child care program are on the honor roll at their elementary schools. Many receive high honors.

In the Commonwealth of Pennsylvania, on average, a child attends a child care facility 10 hours/day, 50 hours/week, 52 weeks/year. The cost for care is $3500/child/year. Service is available for $13.21 per child/day, $1.32/hour. This investment in our children, our most valued natural resource, is very inexpensive, and extremely cost effective. In Pennsylvania, the direct care giving teacher in a childhood environment is more likely to have obtained a baccalaureate degree than not; and, in Pennsylvania, a teacher's average gross earnings is $11,000/year. An average salary that may not compete with salaries for animal care givers in our zoos.

In 1994, 10,000 early childhood staff attended subsidized training, fulfilling a minimum six credit hours in early childhood. Fortunately training is a mandate for all licensed facilities. Many of my staff attend classes that exceed and often double fulfillment of the minimum requirement. Parents have a right to expect and they should openly demand their children are in the care of trained, skilled professionals. I urge the Subcommittee not to cut funding for staff training. I urge you to recognize child care as a vital part of the Contract for America, we urge you to continue funding subsidized child care.

In Pennsylvania, the subsidized child care program has eligibility guidelines. Eligibility for parent participation is based upon documented family size and gross earnings. Based upon their gross earnings, working parents participate as fee payers. Local management agencies (LMA) manage State funds for subsidized child care enrollment. The model serving working parents, is a Parent Choice model. In York County, Pa., Child Care Consultants, Inc. is the LMA. Parents who are determined eligible for care by Child Care Consultants, Inc., as Ms. Kinnard has expressed, are likely to have to wait for care. Through no fault of the LMA, the transition is not smooth. The wait is lengthy. When a parent moves from one subsidized program to another the transition creates a service gap. The parent may lose an opportunity to work if child care is not available, and the cycle of dependency both the parent and the system desire to interrupt may be repeated. With almost as many parents on the York County waiting list as there are parents enrolled, funding should not be cut. Parents need to obtain care to maintain employment. Parents on the waiting list have already demonstrated they do not want hand-outs, they are working. If they were not working they would not be eligible to wait. What choice are we giving our working parents? When we place obstacles, long waiting list and service gaps in their path, they are more inclined to accept dependent life styles. Funding for child care should be the most critical basis for discussion and debate regarding welfare reform. Subsidized child care should continue to be funded to fulfill the ideals of the Contract for America.

If children living in our inner-cities are going to be able to compete in the coming decades as productive, self-supporting adults, they must have an education and they must have adequate and appropriate training. An education and training that prepares our youth to be competitive. Specific education and specific training in the more technical, more scientific and more complex global systems. My experience with children is re-assuring. Children remain very capable of learning, their natural curiosity is inquisitive, they question adults to place order and purpose in their world and their imaginations allow them to remain creative. Their parent however, continue to need reassurances. Reassurance that the progress they are making is purposeful for the quality of their child's life. Reassurance that the decisions that are making now prepare their children to exceed their outcomes.

In conclusion, I have attached the Crispus Attucks Creed to my report. Our children from toddler age and up recite this creed daily. They are on track to continue to break the cycle of dependency. Allow me to conclude with this incident. This incident addresses an earlier question I raised:

> Last May, a former welfare recipient successfully obtained training that prepared her for employment. Despite her lack of work experience, she was hired based upon her successful completion of training. She secured child care at the Crispus Attucks Early Learning Center, the child care center of her choice. The center she attended as a young girl. She earnestly performed her job duties and enjoyed her self-reliant life style. In December, she nervously reported for work knowing her employer was meeting with her to evaluate her performance. She arrived promptly for her meeting and was excited with the news of her performance based pay increase. She returned to her job duties that morning with renewed purpose. She thought, now I am in control of my own destiny. She thought of all the recent sacrifices she had made and of all the things she and her children could now do with the additional $40/ week, the additional $160 /month. As she was leaving her job that day, she remembered she would need to report her increase to the local management agency funding her child care. She realized she would no longer be eligible for subsidized care. She would now need to pay $50 more a week for the same care. Her net loss for her good work would result in $40 less for her and her children next month.

I would like to thank Joan Benso, Executive Director, Pennsylvania Association for Child Care Agencies for statistics cited for Commonwealth of Pennsylvania, Laura Gibble, Executive Director, Child Care Consultants, Inc., of York for local mangement statistics for York County families and children.

Crispus Attucks Creed

I am an individual, positive and proud
of who I am.
I am a winner, a fighter, a navigator
of my life.
I hold my destiny in my hands
My destiny is to be educated, educated
and educated.
I will not fail;
I will win.
My teachers help me by encouragement,
knowledge, understanding and love.
I can fail, but I choose not to.
My destiny is to be educated, educated,
educated.
I am the future.
I am the leader of tomorrow.

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Crispus Attuck [illegible] Inc

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Chairman CUNNINGHAM. And, with Mr. Souder's permission, I know our committee Chairman has got to go back and forth, and I'd like to recognize Chairman Goodling.

Chairman GOODLING. Thank you, Mr. Chairman. I just wanted to welcome all of you, but with emphasis on the two from my district. Mr. Hollis has been the Associate Director of one of the finest operations all of you could wish that you had a Crispus Attucks in your district run the way our's is. Mr. Hollis is the Associate Director. Bobby Simpson is chief domo in charge, and takes no guff from anyone, and I also want to welcome Ms. Kinnard, who is also here today. They do have a magnificent operation.

I would like to just read something into the record. If you visit CA, and you see 50 little children lining up with smiles on their face, and as loud as they can say it they say, "I am an individual, positive and proud of who I am. I am a winner, a fighter, a navigator of my life. I hold my destiny in my hands. My destiny is to be educated, educated and educated," and they hit that as loud as they can hit it. "I will not fail. I will win. My teachers help me by encouragement, knowledge, understanding and love. I can fail, but I choose not to. My destiny is to be educated, educated, educated. I am the future. I am the leader of tomorrow." And, if that doesn't make goose pimples run up and down your spine when you hear them reciting it, particularly, with the expression on their face, I don't know what would.

So, we thank you for coming today.

Mr. HOLLIS. Thank you.

Chairman CUNNINGHAM. Thank you, and, Mr. Payne, do you have any direct questions?

Mr. PAYNE. Well, thank you very much, Mr. Chairman.

We had a conflict this morning, and, of course, not having heard the testimony I am kind of ill-prepared, but I can agree that childcare is very, very important, and unless it is provided adequately that I don't see how any system of reform will work, because I think that persons who are in the employment, are seeking employment, are very, very concerned about the childcare, and to find adequate childcare is very, very difficult.

I, many years ago, raised two children from the ages of about one and three at the time, when I became involved in raising my two children after my wife died, and I can attest to the fact that it's a very, very difficult task to try, one, to find adequate childcare, and then the whole question of all the things that go along with it.

And so, I can certainly attest to the fact that it is a very key and component part of reentry into the workforce, and I will review all the testimony and if there are some questions that I have I will put it in writing and ask you to respond.

Thank you.

Chairman CUNNINGHAM. Thank you, Mr. Payne.

Mr. Souder? You've been very patient, I thank you.

Mr. SOUDER. Thank you, Mr. Chairman.

Though I am a freshman, I spent eight years here on Capitol Hill with the Children and Family Committee on the House side for four years, and in the Senate side as a legislative director, and had a particular interest at looking at children's issues.

One of the concerns that I have, having been in many of the urban centers around the country, as well as having spent time in Appalachia and other places, is that what you see in low-income families, whether they be African-American, Hispanic, or in rural White areas, is a tremendous love of the mothers with the children, even more than in many suburban areas. And, you see this intense love and you see this particularly with younger children, good strong maternal instincts caring for their kids, may not have all the best knowledge, but why, when we have such a demand for childcare services, is it so hard to set up systems where these mothers can care for each other's children? This has been talked about for numerous years. I'd particularly be interested in Ms. Ross' and Ms. Siegel's comments with this, because you just talked about the waiting list. You've got a group of people who conceivably could do it. Why isn't the match occurring?

Ms. ROSS. We actually did some work recently looking at family childcare, and family childcare is the kind of thing that you probably are talking about, because it's a care in someone's home, but it's not the home of anybody who is related to the child. And, as a matter of fact, we found that there was a good deal of that and, quite importantly, about 20 percent of low-income children are being cared for in that way.

What we were looking for at that particular time was what kind of quality enhancements there were in family childcare settings, and found that there were some things going on, especially with the quality money in the block grant, that were helping these caretakers who might otherwise be isolated to learn to network with each other, giving them some resources so that they had lending libraries and lending equipment facilities for each other.

So, there is some of that kind—there is quite a bit of family childcare, and there are some facilities for increasing the quality of it.

Ms. SIEGEL. I'd like to respond, and I agree, and certainly in the packets in the box right down there you have a whole description of a very successful public/private partnership in California to do just what you are talking about, recruit, train and maintain support to help women who are interested in becoming licensed family daycare providers, enter the field.

But, I always sort of like to caution people to think about the difference between providing care for my own three children, you know, every night, every day, or maybe you would think of a birthday party that you might have for your children. You know, it's one thing to have 12 two year olds for a birthday party, but think about it, and it might take quite a different sort of stamina and orientation to do that five days a week, 40 or 50 hours a week. I mean, it's a real commitment, and what we know about good childcare is that the best care is provided by people who want to do it, by people who make a conscious choice, by people who are open to the training and resources available. Many of those may be the wonderful parents that you've met in your districts. It may be the Latina providers that we are training in California now in our El Commienzo project. We are very proud of that, and we're doing that work.

But, even with our sort of cottage industry of childcare, that's insufficient to meet the whole supply. And, for example, we know that the very—in California, we have 50 percent of all the parents who call us looking for childcare have need for children under two. We know that you can't take care of 12 babies, or 11 babies, or even five babies very well by yourself. And so, as we look at what we need to do to develop a supply of stable, reliable childcare, we really have to balance what we know about what's best for children in those supports with the goodwill and the intention of those in our community who may step forward.

And, I'd like to just add one other support that's very important, and that is the Childcare Food Program, which I didn't—it's in my written testimony, but when people make a decision to enter the childcare work force, perhaps, it may be those very low-income women in Appalachia, they need support to provide the very best care to children, and one of the real sort of bedrocks of that support in the United States has been the Childcare Food Program, which I understand is really in trouble right now. It's being considered for consolidation, and I know, Representative Goodling, in your district, in Pennsylvania, for $450 a year children in licensed family daycare and childcare centers throughout your State get two meals and two snacks a day. I mean, it's better than a Big Mac, a Coke and fries. I mean, it's a real bargain, and it's exactly the kind of infrastructure support that we need to maintain if we want to bring new people into the childcare world as stable, caring professionals.

Chairman CUNNINGHAM. Would the gentleman yield? Mr. Goodling is recognized.

Chairman GOODLING. I want to make sure that everyone understands that my idea of block granting is not revenue sharing. My idea of block granting is that you set goals from this level, and you expect those goals to be met, and you will have ways to measure whether they are being met or not. You will allow some of the creativity and so on back on the local and State level, but the goals have to come from here or it's revenue sharing, and we shouldn't be revenue sharing with trillions of dollars, being trillions of dollars in debt.

May I add just one other comment? I'm glad that there are some here who are touching on an area that we've been trying to get some interest on the committee over several years, and that is the whole idea that while many people dealing with "abused children" are concentrating on what someone may call abuse, which most of us would probably call parental control, and parental responsibility, while they are really missing the big abuse cases that are out there because they don't have that many. And, I don't know whether it's done because it's so much easier to intimidate those who are really not guilty than it is those who are truly guilty, but I'm glad that that testimony is coming out, and I hope we can address it somehow, Mr. Chairman.

Chairman CUNNINGHAM. Mr. Chairman, I'm sure we will.

I'd like to make just a couple comments, since I've held back on the thing.

First of all, I'd like the panelists to know that quite often you have many of the Members not here. No one on either side of the aisle holds this lightly. You know, it's a serious problem. It's tied in with an overall problem of the panels you had before you and a lot of other things, crime bills and the rest of it, and it's all kind of intermeshed.

Many of the Members have got mark-ups in other committees. It's not that they don't care, and I guarantee you they will take a look at your testimony, but I really want to thank you for coming.

I know the panelists before, I didn't want to embarrass the lady, she's one of our witnesses, but I never allowed my children when they were three years old to stay in the car. My 15 year old, or my 16 year old now, I don't have her stay in the car. There are too many creepy critters out there by themselves. I never let them out of my sight, even in a store. And, the last thing I would do is let a 10 year old stay in a house and babysit for even a short amount of time, but maybe we do need to protect in those kinds of things.

My children have never in their lives—I have an adopted son who is 25, I have a 12-year old critter, a cross between a raccoon and an otter, and I have a 16-year old—and they have never been, any of them, with a babysitter. I had three sets of grandparents, even when I was in the Pentagon, my grandmother came back and stayed with us. Not everyone is that fortunate, but I really believe that—and, I look forward in my twilight years to being able to sit with my own grandchildren and babysit like my parents.

I would like to see parents take more responsibility. But in the times where two parents have to work, in a case where there are split parents it is difficult, and another thing—many of our laws prevent families from being together. In our own welfare laws, if the father comes home the mother is penalized. I think it disenfranchises people and family from getting together.

We looked at child protective services, and in the crime bill we have things that even strengthened. In your case, Ms. Kinnard, of an abusive father, when you put a warrant, it's not called warrant, but it's a restraining order, our crime bill just recently gave new strength to those kinds of things. So, there's a lot of different areas.

I know that the Chairman in the children's nutrition area is taking a serious look at not including children's nutrition in the block grants with welfare. Because if they cap it we're going to have schools go without it. That's my wishes as well, and I hope we can do that.

There is an earnings test—I don't use the term senior citizens for chronologically gifted folks—in which they are limited in the amount of money they can make. But in many of our mobile home centers and centers, you know, our seniors are some of the most caring, loving people that have gone through all the trials and tribulations. Why can't we have more of those kinds of people working with our children.

And, I guess the question to—am I red lighted already, I better stop, but, you know, we have—I think this is the history. We had a panel end up on time. But I would invite the panelists, if you have any follow-up comments, I will sit here. In my next appointment, I'm supposed to be meeting with staff right now, but I will do that.

But, in the problem of going in and out of the system, when you've got applicants 1 to 14, and you drop out, then you go back to the end of the line, I can see that. Is that the kind of the problem that you went through, Ms. Kinnard?

Ms. **Kinnard**. When I went to the motivational class, my children were enrolled at CA, and then when I went, I had to wait, that was over in June, and I had to wait until August to go to school, business school, and from June to August, yes, I had to drop my kids, take them, and I didn't have a job and they weren't going to pay for me in between, so I got down at the bottom. But, fortunately, I have grandparents, and my grandparents and my mother watched my children until it was time for me to go back to school. And, that took the waiting, that was my waiting list time, and I was able to go back and take my kids to CA.

But, it's not just—the one gentleman said, well, why don't we have these people, I can only talk about what I know, Crispus Attucks does not just offer, and if all the daycare programs were like this maybe we wouldn't have a problem with them, Crispus Attucks doesn't offer babysitting services. My children, I have two that are in first grade, twins, one in second, one in fourth, my children are on the honor roll, and it's because from the time my baby came back here at three months old, he heard the CA creed, it's been motivated since birth. So have my twins and my daughter and my nine-year old son. It's the quality of the daycare program that is the issue.

You can have anybody watch your kids, but are they going to love them, take care of them and treat them like your own? CA does this for my children. And, if all the daycare programs was like Crispus Attucks, it's like my home, my mother passed and I went there the day my mother passed and I said my mother passed, and everybody was my family. If the daycare programs were all like Crispus Attucks Center, then we wouldn't have any problems. We have a senior center program there, intergenerational programs for everybody. We have to take this and treat it like it's our family. We have to take the country and treat it like everybody is our family. We have Spanish people, and I don't speak Spanish, but I know when someone is in need. I know when they need housing. I know when they need food.

A person just lost her baby in a fire. We don't have to have the government to come and say, well, what are we going to give this person, or how much is CA going to give, we come together as a community and we help each other.

And, if we can do that in your county, we can do it anywhere. We have crime. We have everything any other city has. We have drugs. I live on South George Street, right in the heart of the ghetto, no one bothers me, because I let them know from the jump I'm not going for this crap. If you want to do your drugs, you have to take it someplace else. You are not going to be in my backyard smoking crack, and I do the same thing for anybody else's children. If I see a child in the street—I just don't—it's just the level. Crispus Attucks, they all have to be like a Crispus Attucks, they don't all have to have Crispus Attucks' name, but the level, the quality of the daycare programs has to be improved.

You can put your money anywhere, but if you are not getting what the children are supposed to get out of it, you might as well just send it right back to Crispus Attucks. We need it.

Chairman CUNNINGHAM. I'd like to recognize Mr. Payne again for additional comment.

Mr. PAYNE. Yes.

I just had a question. I wonder if any of you could try and answer. Do you think that because of the cost of childcare that people opt to pass up opportunities and stay on Public Assistance because when they add it all up they are not going to be able to make it? Could anybody respond to that? I'm talking about transportation to and from the job. A lot of people have a misconception that most people on welfare just love it. And, while I was not on welfare, I remember when they had something called relief a long time ago, it was kind of temporary, and people really didn't like it, people on welfare now don't like welfare because it doesn't work, but they are not there because they are having a very comfortable life either. So, I just wonder if you could respond to that.

Ms. ROSS. One of the pieces of information that certainly underscores the problem you are raising about childcare is that childcare can cost as much as 25 percent of the budget of a family whose income is below the poverty line. That's a tremendous amount of money.

If you are talking about a woman who is going to earn the minimum wage, adding those kinds of work expenses or subtracting the work expenses from her earnings really make it very difficult to move past where she might have been on welfare in some States.

The earned income tax credit has gone some ways to help make work pay at lower wages, but you are right, it's a very complex thing, and you don't have to want to stay on welfare, you just have to be looking at the numbers and realize you can't make it without sometimes.

Ms. SIEGEL. Actually, I'd now like to sort of quote Lisa, who is a parent from Mr. Riggs' district up in Humboldt County, California, and in my testimony it's what I call the math of childcare and employment. "I'm a single mother with a three year old. I make $6.25 an hour at a medical office. I gross about $1,000 to $1,050 a month. I take home, after taxes, about $800 a month. My rent is $322, it's a rural area. My childcare runs about $350 a month. If I didn't have help with childcare, I'd only have $110 to pay bills, buy groceries and gas, and whatever surprises come up for the month. At $6.25 an hour, I really couldn't afford to work and cover the cost of childcare. I greatly appreciate the help paying for childcare. My childcare provider is very good, and I know my son is in a good place while I work. He learns and has fun with a good little group of kids. I'd have to try to find a job that pays quite a bit more than $6.25 an hour to be able to live. Jobs are hard to find as it is, and my skills are somewhat limited too, so my life would be a lot more stressful as a single parent than it already is."

And, here's the quote that I think is really the zinger. "I definitely do not want to be on welfare. That is something I would not want to do at all. If I had to pay for childcare by myself, I wouldn't have enough money to live on and get through each month. My rent and childcare costs would take over more than three quarters of my take-home pay alone, not enough left to cover the other monthly expenses. It would be so stressful. Thank you so much for the Childcare Assistance Program," and this is what comes from the Childcare and Development Block Grant, "Please, keep it going. As a single parent, it makes all the difference in my being able to have a full-time job and feel good about myself in trying to take care of my child and myself on my own. I can't express how it's helped my situation and how much I appreciate this program."

Now, that's the good story. Turn it around, turn it around to the parent who is one of those 11,000 on the waiting list, and you have the challenge that we all face, because the parent who doesn't have, the working poor parent without childcare assistance is an inch away from welfare dependency.

And, I hope that as you design and look at new programs that you will never, ever forget that revolving door. Think about Lisa, but think about her next door neighbor who may not get to the top of the waiting list, or who may not have the guarantee of transitional childcare if that's eliminated. And, I just hope that image will stay with you as you do your very important work.

Mr. PAYNE. Thank you. My time is expired. I just want to say, just sort of as a conclusion, that as we see less funds, for example, going for transportation subsidies like here in Washington, DC, they are going to increase the fare, reduce services, and people who have to deal with transportation, especially if you have a couple of kids, and I know in my town some people dropped out of school because they just couldn't afford to send two or three high school children to school because there was no discount and bus fares went up because the Federal Government sent less back, the States sent less back, and therefore, the cost of taking a bus just increased.

So, as we see smaller government, you are going to have fewer supports that would help people. My time is definitely expired. I appreciate the Chairman's generosity. Thank you, Mr. Cunningham.

Chairman CUNNINGHAM. Thank you, and the gentleman from Virginia, Mr. Scott, wanted to be recognized.

Mr. SCOTT. Thank you, Mr. Chairman. I apologize for being late. We are marking up a bill in the Judiciary Committee, and as you know we don't have proxies, so I had to stay there.

Chairman CUNNINGHAM. That was our biggest mistake.

Mr. SCOTT. That's just between you and me, of course.

Mr. Chairman, I think everybody agrees that the welfare system needs significant improvements. We are stuck with this situation that nobody likes, because all of the, or at least most of the reforms end up making it worse than the bad situation we've got now. Fixing it is not free. Some studies, most studies, they have suggested that the cheapest way to deal with welfare is just to write the check and mail it, not provide the jobs or the other things that make it possible for people to work.

We have to recognize that it will cost—welfare reform ought to cost something, so that we can make this program work. Those that follow the rules and go to work, and work as hard as they can, ought not live in poverty, and Ms. Siegel has pointed out the arithmetic, that the present welfare system for low-income workers, how much trouble they have to make it.

The earned income tax credit is held to child support enforcement. It's clearly within—it's clearly doable, food stamps are available, childcare has got to be there, healthcare and transportation are two other elements.

I think we can do it, but to suggest that we can do it save money as we do it, I think is asking for too much.

I appreciate the opportunity to have heard the little bit that I did, and I thank you for holding the hearing.

Chairman CUNNINGHAM. I thank the gentleman, and I want to ensure the panelists that when we have single parent families, whether it's a male or a female single parent, in most cases it's a breakdown of the family. And that's an area which I think we need to focus on as well.

I think the general direction that I want to go is to find out which programs work. If CA works in Virginia, does it work in New York and California? And for those that do, let's fund it, let's fully fund it. If WIC, which it does in my district, is good, let's fully fund it.

But, unfortunately, there's so many programs that draw funding, and not just the programs, but all the reports, all the bureaucracies. Because each one of these organizations has personnel, they have facilities, they have reporting data, they don't talk to each other. That means on this end, we've got a big catcher's mitt that has to manage that. Let's do away with all the bureaucracies that we can, and fully fund the programs that work.

And, hearing from you, it is one of the ways in which I think that we can in the Oversight Committee can see it work.

And, the second thing, I guess, is that I think on a State level, the State is best able to determine what is working within their State. If CA works best in Pennsylvania, does it work in New York? Does the governor think that, or is it working for him. Because he's got to get reelected too, and let's allow the States to determine a lot of that, but, yet, have the overriding jurisdiction.

And, I would say that another area that we really want to take a look at are the areas that take away the dollars, like illegal immigration, like fraud, waste and abuse. I think that's all going to be part. When we have a small portion, even in education, that actually gets to the classroom, that's a direction we want to go as well.

And, I would like to thank the panelists. I do have another hearing that I have to go to, but I would like to thank you from the bottom of my heart. It's an area which we will not take lightly. God speed.

Thank you.

[Whereupon, at 12:24 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR MARYLAND
P. O. Box 1585 • Annapolis, Maryland 21404 • Phone (410) 267-0699

Janaury 25, 1995

The Honorable Randy Cunningham
117 Cannon House Office Building
Washington DC 20515-0551

Dear Congressman Cunningham

Request

As spokesperson for members of the Christian Science religion who live in Maryland, I am expressing their request that, if Congress reauthorizes the Child Abuse Prevention and Treatment Act (CAPTA), Congress should remand complete authority on the issue of religious accommodations to the States.

The Maryland Experience

Events in Maryland show what can go wrong when a Federal agency disregards State experience. The Federal Department of Health and Human Services (HHS) in 1990 began tying CAPTA funding in Maryland and two other States to amending Family Law on the religious healing of children. As HHS continued this pressure during four years through 1994, it became increasingly clear in Maryland that not only was HHS policy *inappropriate* and *unfair*, but it was also *a threat to religious freedom*. Here's why.

•Inappropriate: Before the HHS interference, religious freedom in Maryland had been protected while State officials had been able to intercede at any point to protect the health of children. HHS had no reason to interfere.

•Unfair: During the first three years of HHS funding pressure, the Maryland General Assembly, acting from its sense of principle, repeatedly declined to remove its religious accommodation, and HHS denied CAPTA funding to Maryland's child protection program. Last year the General Assembly finally caved in to the continued loss of funds by removing the accommodation, and Maryland's freedom to decide this issue case-by-case suffered. Both the earlier loss of funding and the later restriction of State action were unfair.

•A Threat to Religious Freedom: Not only was the HHS policy against the intent of Congress to protect religious freedom, which Congress expressed more than once as it authorized and reauthorized CAPTA, but after Congress passed in 1993 the Religious Freedom Restoration Act (RFRA), the HHS policy appeared to be in violation of that act.

The accompanying analysis develops each of the above points.

Respectfully submitted,

Dale Burman, Ph.D.
Christian Science Committee on Publication for Maryland

cc: The Honorable William F. Goodling

ANALYSIS OF MARYLAND'S EXPERIENCE UNDER HEALTH AND HUMAN SERVICES (HHS) FUNDING PRESSURE

HHS Policy Was Inappropriate

In Maryland, before the Health and Human Services (HHS) policy change, religious healing was accommodated while State officials were able to protect children. Thus HHS had no reason to intercede.

If a Maryland parent objected on religious grounds to State intervention, officials could go to court and quickly get approval, when justified, for action. Officials intervened through the courts during the 1980's, for instance, in the case of a Christian Science parent whose child had birth defects. The court determined that, since the child was in no immediate danger, Christian Science treatment could continue. Before long, the child was healed through Christian Science, settling the question.

That sort of thoughtful action would be impossible under present HHS policy. Officials would have to order medical treatment immediately. They would not be required to bring the reasoned deliberations of a court into the matter, nor could the parents appeal to the courts in time to restrain officials before they acted.

One reason Maryland's system worked well is the reasonableness of Christian Scientists. We are typically law-abiding citizens who care about the well-being of our children. Though not compelled by our church or its doctrines to do so, we normally use Christian Science to heal our children because we know from our own experience that it works. Our record of healing isn't perfect, but it's very, very good. We ask that, in judging our healing method, society consider the whole record, not just the few failures. All healing methods, medicine included, have had failures.

When officials have specific concerns about our children, the vast majority of Christian Scientists are ready to obey court orders for medical care, even though we are aware, as are many non-Christian Scientists, that serious difficulties can develop under medical treatment. We ask simply that questions about the health care of our children be reviewed under objective state and local court processes in which the freedom to practice religion remains an important factor--that it not be assumed *prima facie* that Christian Science healing is inappropriate.

Since the HHS-spurred changes to Maryland's Family Law went into effect on October 1, 1994, Maryland's Christian Science families have had no assurance of objective treatment. Fortunately, we're not aware that any of our families have had trouble during the past few months with child protection officials, and we pray that problems won't occur. Yet Christian Scientists feel the way any citizen might feel who has lost a protection based on the Bill of Rights.

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Take search warrants, by way of comparison, which carry out the Bill of Rights protection against arbitrary search and seizure. Since most people are honest, they don't expect to be subjects of police searches. But it's reassuring for them to know that, should they be, police will have to convince a judge that a search is warranted. Christian Scientists value legal protections of religious freedom in much the same way. Since their children are almost always quickly healed when ill or injured, Christian Scientists don't expect to have their religious healing practice interfered with. But it would be reassuring for them to know that, should it be, officials would have to convince a judge that intervention is warranted.

Maryland Christian Scientists are now asking the State legislature to restore the religious accommodation. Congress can help Maryland legislators, who are on the scene, make the decision that is best for Maryland by removing the dictations of Federal HHS officials, who are removed from the scene.

HHS Policy was *Unfair*

From 1990 through 1993, while HHS held Maryland's Child Abuse Prevention and Treatment Act (CAPTA) funding hostage and Maryland refused on principle to capitulate, Maryland's child protection program lost close to $1.5 million. That loss was unfair to Maryland and its children.

The Judiciary Committee of the Maryland House of Delegates held hearings through those years on bills to remove the religious healing accommodation from Maryland's Family Law. State officials testified to the need for the CAPTA funding. Pediatricians testified that children need medical attention. Some citizens testified that Christian Scientists endanger their children's health. And Christian Scientists testified that they wanted the freedom to practice their religion through effective spiritual healing of their children. The Committee weighed the testimony and each year voted against bills to remove the accommodation. To Marylanders the HHS policy seemed like a harsh solution to a nonexistent problem.

In 1994 the General Assembly's Women's Caucus moved to get CAPTA funding for Maryland children's programs by placing language to remove the accommodation of religious healing in a very popular bill on domestic violence. After that language came to light late in the session, the House Judiciary Committee voted to cleanse the provisions that would end the accommodation of religious healing from the House Bill. Before the House could vote on the Committee recommendation, however, the sponsor of the House Bill, a member of the Women's Caucus, withdrew her bill. That left the House in the last days of the session with the choice of accepting or rejecting a companion Senate Bill, which included the provisions to remove the religious accommodation. Even our staunchest supporters felt obligated to vote in favor of countering domestic violence, and Maryland's Christian Scientists sympathized with the difficult position in which parliamentary maneuvers had placed those who supported religious freedom.

Maryland got its CAPTA funding, but at a price the House Judiciary Committee, which had thoroughly studied the question, felt it was wrong to pay. Thus, not only was the earlier loss of the CAPTA funding unfair to Maryland, but when CAPTA funding did finally come, it came at the cost of an unfair restriction on Maryland.

HHS Policy was *a Threat to Religious Freedom*

The HHS declaration that the explicit accommodation of religious healing had placed Maryland out of compliance for CAPTA funding amounted to a Federal restriction on religious freedom in Maryland, an action that went against the expressed intent of Congress.

As concern about child abuse grew during the 1980's, experience in a few other states resulted in Maryland's Christian Scientists asking the General Assembly in 1989 to make explicit in Family Law the State's tradition of accommodating religious practice. We felt specific language would be prudent since occasionally in other States officials had acted against Christian Science families under motivations that seemed to include ignorance, misguided zeal, and even religious prejudice.

The House Judiciary Committee supported our request. The motivation of its members, many of whom were attorneys, included deep respect for First Amendment-protected religious freedom. We pointed out to the Committee that Congress had showed a similar appreciation for religious freedom. Congress had expressed several times over the years, as it authorized and reauthorized CAPTA, the intent that States be allowed to accommodate religious treatment. Accordingly, we noted, HHS up to that point had been following Congressional intent by accepting similar language in the laws of other States. Both Houses of the General Assembly accepted the Committee recommendation by passing our proposal by comfortable margins.

The 1989 addition to Family Law was carefully worded to serve the State's dual responsibilities toward children and religious practice. The provision read that child "abuse does not include, for that reason alone, providing a child with non-medical religious remedial care and treatment recognized by State law." The change added the same wording to the definition of child neglect.

This wording amounted to an accommodation, not an exemption. Only parents whose religions that, like Christian Science, had sought legal recognition of their religious practice of healing could use the accommodation. That prevented other parents from turning the provision into a loophole to escape State action. And even for Christian Scientists the accommodation wasn't absolute since State officials could take action once they showed a judge that factors other than merely the practice of religious healing indicated abuse or neglect.

Meanwhile, freedom of religion, in general, came under attack by recent court decisions that allowed government to restrict religious practice without meeting the test of earlier Supreme Court precedent. The Courts were no longer requiring governments to show that restrictions of religious practice furthered a compelling state interest. Faced with this erosion of religious freedom, Congress in 1993 moved to redress the balance by passing the Religious Freedom Restoration Act (RFRA).

HHS policy fares poorly in light of RFRA, which requires that governments show that any restriction of religious practice actually *furthers* a compelling state interest and that it be the least restrictive way to further that interest. Without question children's health is a compelling state interest, but HHS has never presented evidence that its prohibition of religious healing actually furthered that interest or that its prohibition was the least restrictive way to further that interest. In fact, indications are that HHS hardly considered these questions after Congress enacted RFRA. It would appear, then, that HHS in 1994 acted in violation of RFRA.

We have every reason to believe that the Maryland General Assembly will want to act in the spirit of RFRA and at the same time follow the State's tradition of protecting religious freedom by restoring the religious accommodation to Family Law. But as long as CAPTA funding pressure hangs over its head, the General Assembly must chose either religious freedom or funding for its child abuse prevention programs. We ask Congress to relieve Maryland and other states of that dilemma by correcting HHS policy.

STATEMENT

Submitted by Ralph E. Burr, Christian Science Committee on
Publication for the District of Columbia
to the
Committee on Economic and Educational Opportunities
Subcommittee on Early Childhood, Youth and Families
United States House of Representatives

January 31, 1995

EXECUTIVE SUMMARY

In 1974, Congress enacted the Child Abuse Prevention and Treatment Act (CAPTA), which authorized the U.S. Department of Health and Human Services (HHS) to make grants to states that set up programs to prevent child abuse and neglect. HHS has published regulations specifying the requirements states must meet to qualify for grants. Under the regulations, state programs must assure that, among other things, proper medical care is given to children by parents, and failure to do so constitutes one form of "neglect".

The Act is silent as to what kind of medical care must be given. Legislative history indicates that Congress did not intend to require any one particular kind of medical care for children nor to circumscribe the use of alternatives to conventional medicine, such as spiritual healing through prayer as it is practiced by a recognized church.

HHS regulations recognized this congressional intent until 1983, when they were abruptly changed. Since then, HHS has been coercing states and the District to repeal laws accommodating spiritual treatment for children, requiring conventional medical care in all cases involving child health, regardless of the sincere, firmly-held religious beliefs of the parents and regardless of evidence of prior successful spiritual treatment.

To enforce this radically revised policy, HHS is using as a club the power to withhold CAPTA grants from states that do not comply. HHS has reviewed all state laws in this respect and has notified several states that they are not in compliance and will lose their grants unless they come into compliance. Some states have resisted this coercive tactic, but most have bowed to HHS's presumptuous demand for national uniformity and have relinquished their right to deal with this aspect of child care on the state and local level. The power to withhold federal funds is, indeed, a formidable weapon!

The District of Columbia was among those states that were found not to be in compliance, and it was advised by HHS in November 1992 that it must change its relevant statutes and administrative provisions or lose its much-needed CAPTA grant. In response to this demand, then-Mayor Kelly in July 1993 asked the District Council to pass legislation that would bring DC law into compliance. The Council passed such legislation on an emergency basis without notice on August 9, 1993 for a period of 90 days, and subsequently followed this enactment with another identical temporary law valid for 225 days. Finally, a third identical bill was introduced to make the repeal of the religious accommodation provision permanent.

This demand by HHS contravenes the First Amendment's guaranty of freedom of religious exercise with respect to Christian Scientists, since healing through prayer alone is an integral part of this religion. It has been effectively and safely practiced by Christian Scientists for themselves and their children for well over a century and through several generations with widely acknowledged success.

When Christian Scientists in the District learned what had been done so quickly and quietly by the Council--under equally silent pressure by HHS--we made every effort to seek redress. We pointed out to the Council and to the Executive Branch the serious erosion of First Amendment rights that resulted, relying heavily on the Religious Freedom Restoration Act of November 1993. In December 1993, twenty-seven Christian Scientists from the District testified at a committee hearing on the bill, witnessing to the power of prayer to heal their children and themselves.

At times we found some slight acknowledgment or begrudging recognition of a "possible" Constitutional issue, but it was usually dismissed as of secondary importance in the face of the District's financial crisis and great need for federal funds. At our urging, two members of the Council did finally recognize the issue and took steps to ameliorate somewhat the severity of the impact on Christian Scientists. However, it wasn't until Congress passed a one-year moratorium on HHS's coercive tactics--which removed the threat of losing funds--that the Council dropped the repealer and reinstated the prior religious accommodation provision.

STATEMENT IN FULL

I greatly appreciate the opportunity to submit a statement to this Committee concerning the re-authorization of the Child Abuse Prevention and Treatment Act. As the Christian Science Committee on Publication for the District of Columbia, it is my responsibility to monitor actions of the District government that affect the religious interests of the six Christian Science churches in the District and their hundreds of members. In this capacity, I worked with the District government, particularly the District Council, last year with respect to the District's implementation of CAPTA and its threatened loss of CAPTA funds for failing to comply with the policy of the U.S. Department of Health and Human Services regarding religious accommodation under the child neglect law.

As enacted, CAPTA did not contain a religious exemption or accommodation provision regarding health care of children, but there is legislative history indicating that Congress did not intend by the act to circumscribe the practice of spiritual healing through prayer. The US House of Representatives Report No. 93-685 includes this statement: "First, the Committee recognized that 'negligent treatment' is difficult to define, but it is not the intent of the Committee that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child is for that reason alone considered to be a negligent parent. To clarify further, no parent or guardian who in good faith is providing to a child treatment solely by spiritual means--such as prayer--according to the tenets or practices of a recognized church through a duly accredited practitioner shall for that reason alone be considered to have neglected his child."

Regulations initially promulgated by HHS to implement the state grant program closely patterned this language. States were allowed--even encouraged--to enact religious accommodation provisions preserving the rights of parents to use prayer in treating their children, thus protecting such children from being found "neglected".

In 1983 HHS regulations on this point were radically changed, ignoring congressional intent expressed in the House Committee report. Current HHS policy, reversing the earlier spiritual treatment provision designed to protect conscientious, responsible parents such as Christian Scientists, now requires states to disallow spiritual treatment even though it is preferred because of the religious convictions of parents.

In recent years, HHS has been taking ever-stronger action to enforce this policy, using CAPTA grants as its enforcement weapon. It has conducted a thorough review of state child neglect laws and has determined that, because of the presence of religious accommodation provisions, several of the states are not in compliance with federal requirements. The District of Columbia is among those states, and it was advised by HHS in November 1992 that it must bring its relevant statutes and administrative provisions into compliance or lose its federal funds.

In response to this demand, then-Mayor Kelly in July 1993 asked the Council to pass legislation that would bring DC law into compliance with HHS's wishes. The Council passed such legislation on an "emergency" basis on August 9, 1993 for a 90 day period. The Council also passed an identical "temporary" measure that was in effect for 225 days from the date of its approval by Congress, which occurred on November 20, 1993. Finally, another identical bill was introduced to make the changes permanent.

In essence, the District legislation made two significant changes in prior law: (1) it defined "neglected child" as one who, among other things, is not provided conventional medical treatment solely because of the religious objections of the child's parents, and (2) it required the reporting of children who are not receiving conventional medical treatment because of the religious objections of the child's parents. (A major uncertainty regarding the second provision is whether it was intended to include, or would have had the effect of including, the child's parents and/or a Christian Science practitioner who is treating the child through prayer, which is an important aspect of the practice of the Christian Science religion.)

I have not been able to determine all the background to this forced change in District law. The District government and HHS have not been forthcoming in response to my inquiries. Accordingly, in March 1994 I filed a Freedom of Information Act request with the District's Department of Human Services, asking for copies of all correspondence between HHS and the District on this subject. Under FOIA, a response is due within ten working days. In spite of many phone calls, messages, and certified letters, followed by many promises by the Department's FOIA officer, I have not received anything. In recent weeks, my phone calls have not even been returned.

The changes demanded by HHS are, I believe, unconstitutional. The First Amendment includes the statement that Congress shall make no law prohibiting the "free exercise" of religion. By the Fourteenth Amendment, this provision has been extended to the states. This long-held and deeply-cherished provision has been a great blessing throughout our nation's history. It is based on many bitter experiences of governmental domination of religion, sometimes by direct action of government and sometimes through favoring one religion over others. It has, reciprocally, been of great benefit to government, keeping it from becoming entangled in religious beliefs and controversies.

This apparently simple statement in the First Amendment has not been free from interpretational difficulties, as is seen in the many Supreme Court opinions on the subject over the years. However, to clarify the status of religious rights, the Congress has passed and the President has signed the Religious Freedom Restoration Act. This Act re-asserts the foundational nature of this Constitutional right, and issues a clear warning to governments at all levels that its circumscription can be legislated only under the most compelling circumstances. It places on the government the burden of proving that a legitimate religious practice is inimical to society, and this evidentiary burden cannot be shifted onto the church to prove that its practice is not inimical to society. This applies even to a practice that is not widely recognized by other churches, such as healing through prayer.

Spiritual healing through prayer is a vital part of the Christian Science religion. It is inextricable from the totality of our theological beliefs and practices. Any constraint on the healing practice of Christian Science strikes at the very heart of the entire system of worship and life that Christian Scientists have cherished and adhered to for well over a century. When founding this church in 1879, Mary Baker Eddy declared it to be "... a church designed to commemorate the word and works of our Master, which should reinstate primitive Christianity and its lost element of healing." (Manual of The Mother Church) She required it to meet Jesus' command to all his followers, "Heal the sick, cleanse the lepers, raise the dead, cast out devils." (Matthew 10:8) Christian Scientists should not be discriminated against simply because they actually follow and daily obey this deeply Christian command.

STATEMENT

Submitted by Philip G. Davis, Federal Representative for the Christian Science Committee on Publication.
to the
Committee on Economic and Educational Opportunities
Subcommittee on Early Childhood, Youth, and Families
United States House of Representatives

January 27, 1995

SUMMARY

The Child Abuse Prevention and Treatment Act (CAPTA) needs to be amended to ensure that every state has the freedom to decide what is child abuse and neglect as well as defining what is proper health care for a child. For several years now the Department of Health and Human Services (HHS) has been forcing states against their better judgment to change their laws and policies contrary to congressional intent and without congressional approval. In fact, repeated statements from congressional committees and complaints from state legislators and officials have been simply ignored.

Child abuse and neglect is a serious problem in our country. However, families and parents shouldn't become victims to overzealous prevention measures. All parents deserve the presumption of being responsible parents. Unfortunately, those children who have been provided with spiritual treatment through prayer alone by their parents have been prejudged by HHS as neglected.

This is not an issue of the rights of a religious dogma versus the rights of children to good health care. This involves the rights of parents to have sufficient latitude in choosing what they have found to be very effective and the best for their children. This also involves the ability of state governments to take all factors into consideration in any child's case.

HHS's actions are both arbitrary and capricious. The situation at present is serious. Over forty states with these provisions have been targeted and threatened with a loss of funds unless they comply. Twelve states have had their laws or regulations changed due to pressure from HHS. Over twenty states have submitted Attorney General opinions to meet HHS's requirements. Several states are still considered out of compliance by HHS.

In addition, HHS's actions clearly violate The Religious Freedom and Restoration Act. The standards in the law to prevent the burdening of religious practice have been ignored by the Department.

We feel it is time for Congress to let HHS know that interference with religious provisions in state laws is no longer allowed. It has been said by more than one state official that HHS is trying to fix something that isn't broken. All the time and effort expended on this non-issue means less time for states to spend on actual cases of child abuse and neglect. Child protective agencies have enough of a challenge today without making their job more difficult. Your help in this matter will make CAPTA better and provide one way of letting states fight child abuse and neglect more effectively.

FULL STATEMENT

All of us would agree that few issues equal or surpass that of providing for the safety and proper development of all our children. Child abuse and neglect is a serious problem in our country that demands our sensitivity and commitment to resolve. However, just as important in the solving of these problems is the support that parents should feel from government in order to properly raise their children. If our court systems are based on the presumption of the defendant's innocence then shouldn't our child abuse and neglect laws, regulations and child protective agencies approach family problems with the same presumption?

No one would argue that a government presence and intercession is not needed at times in dealing with abused children. The question is, how much and when? Where does the government find the balance of being involved at the right time and in the right way with children who suffer from child abuse or neglect? Is it possible for government to be lax in its responsibilities--causing the suffering or even the death of children? Yes. On the other hand, can government be so broad and sweeping in its attempts to protect children that individual rights and considerations are trampled? Yes. In addition, can government be too intrusive and actually harm children by needless harassment of the family unit? Yes.

It is these latter two points that are so important to the overwhelming majority of parents in the raising of their children. This is of particular interest to Christian Science parents who have felt that their care for children is presumed neglectful rather than responsible. It is government intrusion at the federal level that for the last several years has been prejudicially forcing a majority approach to children's health care on those who choose a minority approach.

The Importance of Family

Before I go any further, one point needs to be absolutely clear. This is not an issue of the rights of a religious dogma versus the rights of children to good health care. First, this is in fact an issue that involves the rights of parents to have sufficient latitude in choosing what they have found to be very effective and the best for their children. Parents should not have the government looking over their shoulders at every decision.

Second, children may be the same from state to state, but their cases vary widely. It is presumptuous at best to ignore the individual circumstances of each family situation. Many child advocates and social workers are realizing today how important it is to understand and appreciate the cultural traditions and diversity of families before making judgments on the level of care provided to children. In like manner isn't it just as important to understand the religious practices of the family? The federal government should never interfere with the ability of states and local judicial systems to take all these factors into consideration. To do so could cause irreparable damage to the family as well as trampling on individual and religious freedoms.

Initial Support of Minority Rights

The Child Abuse Prevention and Treatment Act (CAPTA) was enacted to support individual states in their fight against child abuse and neglect. Initially, CAPTA regulations supported minority approaches to health care of children as well as state flexibility and determination of specific cases. During the last decade, however, the Department of Health and Human Services has used CAPTA to interfere with parents who use spiritual treatment for children by arbitrarily and capriciously forcing states into abandoning their ability to determine these cases on their own.

At risk are over forty state law provisions for spiritual treatment with children. The legislatures in these states intended that children whose parents use spiritual treatment for them wouldn't be considered abused or neglected for that reason alone. At the same time they ensured that the state would maintain the ability to intervene if necessary. The provisions were carefully drafted in each state to guard against those who might try to deceptively use religion as an excuse to abuse or neglect a child. Many of these provisions were in place before CAPTA was enacted back in 1974.

The provisions represent an arrangement that has worked well for many years. In some cases, state flexibility and local determination has resulted in the state's child protective agency monitoring a case under spiritual treatment until the child was no longer considered at risk. Intervention, although always an option with the state, has been used rarely with Christian Science parents over CAPTA's lifetime.

Threat to Withhold Funding

There is not one situation where these provisions have hampered the ability of the state to intervene in a child's case. HHS cannot produce evidence to the contrary. In fact, in their correspondence to states they avoid their lack of evidence. Instead they refer to the state's provision as "ambiguous." They then insist, again without evidence, that this wording "may" hamper the state's ability to intervene. This is the rationale HHS has used for threatening to withhold funds from over forty states, despite the fact that state authority has never been restricted from these provisions. In other words, HHS's policy of interference is based on hypotheticals. Funding was actually denied in at least three states.

Although individual states largely opposed HHS's actions, they understandably didn't want to lose their funding for preventing child abuse and neglect. They were put into the difficult position of either losing their funding or losing their own local determination of these cases and eliminating freedoms and choices for parents. Some states (both their state legislators and congressmen) worked long and hard at compromise. The result was confusing and complicated language in some states. Unfortunately, some other states fearful of losing precious funds reacted by repealing their provisions entirely.

At present, twelve states have had their laws or regulations changed due to pressure from HHS. Over twenty states have submitted Attorney General opinions to meet HHS's requirements. Several states are still considered out of compliance by HHS.

Perspective is needed

Although HHS will point to a handful of children who have died under spiritual treatment, there is a desperate need for perspective. Certainly every child's death is a tragedy whether it occurs under spiritual treatment or conventional medical treatment. But we find it difficult to understand how the government can compare this to the serious problems affecting children on a national scale. Tens of thousands of children die each year under conventional medical treatment, some because of medical misdiagnosis, mistaken prescriptions, malpractice or other preventable reasons. In these instances does society question the method because of the mishaps?

The child abuse and neglect problem is immense with thousands of children at risk every year. Children who are neglected lack treatment, while children under Christian Science care are receiving treatment. Although this treatment may not be the most commonly chosen today, it is a treatment.

Thousands of parents have found this treatment effective to eliminate suffering and restore health. It is a treatment that over thirty national health insurance companies are covering and reimbursing. It is a treatment given by Christian Science practitioners who are permitted to certify leave in the Family and Medical Leave Act of 1993. It is a treatment that was covered in three of the major bills from Congress last year on National Health Care Reform. It is a treatment supported and fully endorsed by loving, caring parents, not abusive adults. In the interest of fairness, it is simply not right to categorize this care and treatment as identical with locking a child in a closet and denying food to him. HHS's policy does exactly this.

Implications of RFRA

A little over a year ago, the President signed into law the Religious Freedom and Restoration Act or RFRA as it is often called. Each member of this committee voted for it. Easily this law is the most significant law safeguarding religious freedom passed in this century--maybe since the passage of our First Amendment in the Constitution. Not everyone understands, though, the high standard this law establishes for religious faith and practice. You may recall that last year the President asked each cabinet department's office of General Counsel to assign one of their staff members to take up the responsibility of monitoring RFRA's impact and effect.

To date, HHS has made no effort to fully examine their policy towards state religious provisions in light of RFRA. The law, of course, insists that government action must be in furtherance of a compelling governmental interest in order to interfere with some one's religious practice. It must then choose the least restrictive means. Not only has HHS not examined the least restrictive means question, they have not proven that their actions advance or better the compelling interest of health care for children. Absolutely no evidence exists showing Christian Science care and treatment to be any less effective for the health of a child than conventional medical treatment. RFRA was passed to take the burden of proof off religion and put it back on the government. The government must bear the burden of proving it has sufficient cause to restrict the practice of any one's religion.

Clearly HHS's activity is bad federal policy forced upon states and parents. The history reveals much over the last twenty years.

Gradual Erosion of CAPTA's Intent

During the seventies after CAPTA's enactment, federal policy actually encouraged states to have religious provisions for spiritual treatment with children. In 1983, without statutory change HHS changed its regulations. Although we were still provided for in the regulations, the policy was slowly reversed. What was originally intended as a regulatory provision to help parents who use spiritual treatment, HHS used against those very parents. As we understand it, the Department would allow just about any type of treatment for a child -- chiropractic, osteopathic, naturopathic, acupuncture -- any, but spiritual treatment.

A few states were challenged in the mid-eighties. However, we received assurances that provisions for spiritual treatment in other states were acceptable.

By 1990, HHS began what it referred to as a "national review" of every state religious provision for children. They targeted nearly every state with a religious provision and threatened these states with a loss of funds unless they changed or repealed their law or submitted an Attorney General opinion to satisfy their demands. They even referred to these provisions inaccurately as "religious exemptions." The phrase is prejudicial because it wrongly implies that the child is exempted from all care and treatment.

Attempts were made during the next reauthorization of CAPTA to make congressional intent clear to the Department. The House Floor Analysis during CAPTA's reauthorization in 1992 contained a strong statement that "the exact parameters of adequate parental care are to be delineated by State law and the State courts." Further on it reads, ". . . such determinations as to the adequacy, type and timing of medical treatment are within the sole judgment of each State system."

HHS's response was to completely ignore it. During CAPTA's entire twenty year enactment, Congress has consistently supported allowing states to determine this issue.

More is needed: Remand Determination Back to the States

In order to prevent the further erosion of these state provisions the Appropriations bill for HHS last year placed a moratorium on the Department. The language told the Department that it couldn't threaten any more states with a loss of funds until the reauthorization of CAPTA. This moratorium is in effect this year.

It is clear now that language of intent is not enough. This is why we are seeking an amendment to CAPTA. We are asking for nothing more than language that will remand this sensitive issue to state determination where each case can be examined individually and carefully.

The Department is advocating a one-size-fits-all approach to child health care and yet shouldn't our approach be to do what is best for each child? Equal protection if it mandates only one standard solution is not always the best protection. Religious freedom itself should allow consideration of more than one standard solution. Joel Klein, the White House Counsel, said recently, "The President recognizes that religion is not just another value or activity. He believes that religion has a unique role in American life and that it deserves special protection that is consistent with the Constitution."

Unless the federal government wants to take over state child protective agencies and juvenile courts, issues like this need to be resolved locally. States with these provisions already have oversight, balance and contact with parents and children. Government should be supporting this role not interfering with it.

We feel it is time for Congress to let HHS know that interference with religious provisions in state laws is no longer allowed. It has been said by more than one state official that HHS is trying to fix something that isn't broken. All the time and effort expended on this non-issue means less time for states to spend on actual cases of child abuse and neglect. Child protective agencies have enough of a challenge today without making their job more difficult. Your help in this matter will make CAPTA better and provide one way of letting states fight child abuse and neglect more effectively.

Philip G. Davis
Federal Representative
Christian Science Committee on Publication
910 16th Street, N.W. Suite 700
Washington, D.C. 20006

Enclosures:

Proposed Amendment to CAPTA
Appropriation moratorium
Conference Report from the Appropriations Committee

CONFERENCE REPORT ON H.R.4606
JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

GENERAL PROVISIONS

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a moratorium on the withholding of funds under the Child Abuse Prevention and Treatment Act from any State by the Department of Health and Human Services because a State is not deemed to be in compliance with the religious exemption regulations. The House bill included similar language on this subject. The moratorium will allow the authorizing committees time to look at all sides of this issue and hear testimony from all affected parties when Congress considers legislation to reauthorize CAPTA next year. Under the moratorium, States deemed to be out of compliance with the religious exemption portion of the regulations will continue to receive CAPTA funds.

During the reauthorization of CAPTA in 1992, the House stressed that "the exact parameters of adequate parental care are to be delineated by State law and State courts" and that "determinations as to the adequacy, type and timing of medical treatment are within the sole judgment of each State system."

from *Congressional Record* September 20, 1994
p. H9309

II

Calendar No. 527

103D CONGRESS
2D SESSION

H. R. 4606

[Report No. 103–318]

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, JUNE 7), 1994

Received; read twice and referred to the Committee on Appropriations

JULY 20, 1994

Reported by Mr. HARKIN, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the

(1) All aspects of the ordering, storage, packaging and distribution system are fully developed, tested and validated in accordance with the requirements imposed on commercial manufacturers and distributors.

(2) The Commissioner of FDA has conducted a complete review of all aspects of the system, has reviewed and verified documentation of testing and validation procedures, and has provided documentation to the Committees of both the House and the Senate that all licensing and performance standards required of commercial distributors have been met by the General Services Administration system.

(3) The Secretary has provided documentation to the Committees of both Houses that the cost of the General Services Administration system is lower than the cost of private sector bids.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1995".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles II ~~and~~ ~~III~~, *III, and IV* of the Goals 2000: Educate America Act and titles II, III, and IV of the School-to-Work Opportunities Act, $528,400,000 of which $503,670,000 shall become available on July 1, 1995, and remain available through September 30, 1996.

EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as ~~passed the House of Representatives on March 24, 1994~~ *reported by the Senate Committee on Labor and Human Resources on June 24, 1994*, and by section 418A of the Higher Education Act, ~~$7,245,656,000~~ *$7,233,411,000*, of which ~~$7,212,093,000~~ *$7,214,849,000* shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That $6,698,356,000 shall be available for grants to local education agencies, *not less than* $41,434,000 shall be available for capital expenses, $102,024,000 shall be available for the Even Start program, $305,475,000 shall be available for title I migrant education activities, ~~$37,244,000~~ *not less than $40,000,000* shall be available for title I delinquent and high-risk youth education activities, *no more than* $27,560,000 shall be for program improvement activities, ~~$15,000,000 shall be for demonstration grants,~~ and $8,270,000 shall be for evaluation.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by the Improving

The First Church of Christ, Scientist in Boston Massachusetts
Washington, D.C. Office
Committee on Publication

PROPOSED AMENDMENT TO SECTION 14 OF

THE CHILD ABUSE PREVENTION AND TREATMENT ACT

42 U.S.C. § 5106 G ("DEFINITIONS")

(PROPOSED text in bold)

Add the following bolded language to subsection (4) (definition of "child abuse and neglect"):

(4) the term "child abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; **the term "child abuse and neglect" includes failure to provide adequate food, clothing, shelter or health care. Determinations regarding the adequacy, type and timing of health care (whether medical, non-medical or spiritual) are to be determined under the child protection law of the state in which the child resides.**

January, 1995

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January 23, 1995

Congressman Randy "Duke" Cunningham
117 Cannon House Office Building
Washington, D.C. 20515-0551

Dear Congressman Cunningham:

RE: Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. section 5101 et seq.

I understand that the subcommittee that you chair is reviewing the CAPTA statutes and related regulations. (45 C.F.R. section 1340.14.) I am writing to provide some background information on CAPTA, and the impact of the more recent Department of Health and Human Services (DHHS) interpretation of the CAPTA regulations. The attached summary and breif memo describes the litigation that California successfully initiated against the DHHS and its interpretation of CAPTA regulations. In 1994, the DHHS withdrew its appeal from the District Court's decision in favor of California. (California v. Shalala, Nos. 93-15700 and 93-15936.)

In my current practice as an attorney, I represent children and parents in the superior and appellate courts of California. The issues I deal with relate to the statutory interpretation of abuse and neglect, the federal mandate to maintain and reunify families when possible, the complex issues of special education services for children, the rights of mentally disabled parents, and the interaction of entitlement programs and parental rights. Many of these legal issues concern the interaction of federal and state law as it related to parents and children.

Before starting an independent legal practice, I was the Staff Attorney with the Children's Advocacy Institute (CAI), which is affiliated with the University of San Diego School of Law. In my capacity at CAI, I served as the pro bono counsel for the California Consortium to Prevent Child Abuse, which was granted Amicus Curiae status in the CAPTA litigation shortly after it was filed in the District Court in November 1992.

If you need any further information on my education and experience, or have any questions relating to the attached information, please do not hesitate to call me.

Sincerely,

K Murphy Mallinger

SUMMARY

INTERPRETATION OF CAPTA REGULATIONS AND RELATED CALIFORNIA LITIGATION

The Child Abuse Prevention and Treatment Act (CAPTA) established the National Center on Child Abuse and Neglect, which is responsible for conducting and analyzing child maltreatment research, and disseminating statistical and research information to state and federal policy makers. Policy makers, child advocates, and academics use the resulting data to understand the extent and kind of child maltreatment, and evaluate particular programs.

CAPTA also provides grants to the individual states to improve their child maltreatment reporting systems and their child abuse prevention systems. The Department of Health & Human Services (DHHS) reviews state statutes and case law to determine eligibility for some of these funds. In recent years, without any supporting authority arising from a change in statute or regulation, the DHHS changed its interpretation of the CAPTA regulations relating to eligibility for funds. For California, this meant denial of CAPTA funds in FY 1991/92 and 1992/93. With the support of child advocates, California filed suit in U.S. District Court. The Court found that the DHHS interpretation of CAPTA, including its unsupported allegation that California law did not protect children of all religions, to be arbitrary and capricious.

I believe CAPTA funding promoted consistent, accurate reporting of child maltreatment nation-wide. I believe that the support of child maltreatment research created a necessary and reliable data base for policy makers and child advocates. However, either CAPTA or its related regulations should be amended to prevent wasteful and arbitrary agency interpretations.

K Murphy Mallinger

K. Murphy Mallinger, Ph.D., J.D.
San Diego, CA

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INTERPRETATION OF CAPTA REGULATIONS AND RELATED CALIFORNIA LITIGATION

1. Background

The Child Abuse Prevention and Treatment Act (CAPTA) established the National Center on Child Abuse and Neglect, which is responsible for conducting child maltreatment research, compiling and analyzing the resulting data, and disseminating statistical and research information to state and federal policy makers. This statistical and research information is invaluable to distinguish rhetoric from reality in child protection, and in shaping and reforming national policies regarding children and families. If we do not know the unduplicated number of child abuse and neglect complaints that states receive and substantiate, then we cannot know the effectiveness or ineffectiveness of any child protection policy initiative. Integrated, comparative national statistics on child protection are particularly important at a time when our nation seeks to re-evaluate existing solutions to persistent social problems.

CAPTA also provides grants to the states for the development of child protection programs. (42 U.S.C. section 5106a.) To obtain a Part I grant, a state must establish a child maltreatment reporting and investigation system with immunity for those who report child abuse and neglect, provide for the confidentiality of child abuse reports, provide for the cooperation of law enforcement, courts and child protective agencies, and provide for the appointment of guardians ad litem to represent children in legal proceedings, among other requirements.

Over the years, these grants to the states assisted them in establishing efficient, reliable reporting systems for child maltreatment, and promoted national uniformity in child protection services, agency cooperation, and information. To protect children from maltreatment, states need an effective, impartial reporting system, and timely and accurate investigations. Child protective workers can and often do intervene appropriately and maintain children safely within their own families or their extended families.

The CAPTA-related regulations provide more detail on the requirements for a state's eligibility for a Part I grant. (45 C.F.R. section 1340.14, et seq.) The regulations include a definition of child abuse and neglect, but expressly acknowledge that each state does not need to have the identical language in its definition of child maltreatment. The regulations also elaborate the guardian ad litem and confidentiality requirements, and require provision of a reporting system for child abuse and neglect occurring in institutions.

Unfortunately, since at least 1990, the Department of Health and Human Services (DHHS), responsible for the determination of eligibility for the grants, has changed its interpretation of the regulations, without the benefit of any supporting statutory or regulatory mandate arising from Congressional action. The DHHS apparently pursued an arbitrary interpretation of CAPTA regulations, which was inconsistent with previous interpretations and detracted from other, more important, child protective goals. The new interpretation of CAPTA regulations became a source of contention between the DHHS and many states when grants were renewed. States previously eligible for funds under identical statutes and regulations became enmeshed in protracted bureaucratic discussions. In the case of California, the arbitrary DHHS interpretation of CAPTA regulations came to that most expensive arbiter of disputes, the judicial system.

2. California v. DHHS

In reaction to an arbitrary 1992 determination that California was ineligible for CAPTA Part I funds, California sought and received an injunction against the DHHS in federal court. Despite the traditional judicial deference to agency interpretation of its own regulations, in 1993, the U.S. District Court in San Francisco rejected the DHHS regulatory interpretation of CAPTA, describing it as arbitrary and capricious. The DHHS then pursued an expensive lengthy appeal to the Ninth Circuit, until withdrawing the appeal a few days before oral argument.

At the time they were first enacted, the California child abuse reporting statutes were crafted with the advice of the DHHS. California applied for and received CAPTA Part I grants every year until the mid-1980's, when the governor did not apply for funds. In 1991, when Governor Wilson applied for a Part I grant, the DHHS denied eligibility. Contrary to the advice of many California child advocates, the state did not immediately seek an injunction and court review of the arbitrary decision. In 1992, despite a requested California Attorney General opinion, the DHHS again denied funding to California. The four disputed areas were:

1. California, and 36 other states, have statutes which basically provide that children receiving medical treatment by "spiritual means" are not necessarily being neglected. The DHHS described this as an impermissible "religious exemption" to the child abuse reporting laws,

2. California statute permits a court to use a balancing test to release part of child abuse records, although several other statutes prohibit release of records if prohibited by federal law,

3. The DHHS incorrectly asserted that California statute did not mandate reporting of emotional abuse of children, and

4. The DHHS objected to the term "serious" in the jurisdictional abuse and neglect definition, which permits a juvenile court to take legal custody of a child from a parent.

In February 1993, after reviewing all the issues, the District Court ordered the funds released to California, finding the DHHS was clearly arbitrary on all four bases of denial. In the decision, Judge Walker wrote, "The court finds that the DHHS's denial to California is based upon narrow, literal interpretations of certain words in certain selected statutes and that the DHHS has intentionally ignored and refused to consider how California's extensive statutory scheme is actually interpreted and applied." Describing the "religious exemption" contention as a "glaring example" of the arbitrary nature of the DHHS denial, the decision noted that the regulations previously required this language for a state to be eligible for funds.

After its loss in the District Court, the DHHS released the CAPTA funds to California. One month later, the DHHS appealed two issues from the decision, the "religious deference" issue, and the use of the modifier "serious" in the child neglect definition in the statute permitting court jurisdiction over a child. In pursuing an appeal, the DHHS position was increasingly untenable.

First, the DHHS failed to acknowledge any difference in legal significance between child abuse reporting and the state court's power removal to children from their parents, sometimes permanently. The DHHS improbably asserted that CAPTA permits a review of each state's statutes which control the judicial power over family integrity.

Second, the use of the term, "religious exemption," to describe state statutes relating to child protection was inflammatory, as well as inaccurate. California statute merely refuses to describe a child as neglected solely because a parent uses spiritual or religious healing. Using the DHHS interpretation, if a parent prays when his or her child is sick, then the parent is per se neglectful. California law also provides a careful and comprehensive balancing test for a court's decision whether to order conventional medical treatment for a child over a parent's objection. (Welfare and Institutions Code section 300, subdivision (b).) California law thus permits intervention to protect all children, regardless of their parents' religious beliefs, but requires the juvenile court to consider each case on an individual basis. The DHHS' uninformed rhetoric on "religious deference" statutes failed to consider the child protection issues carefully and appeared to target particular religious groups.

3. Conclusion

Because of its value in promoting child protection systems and in creating a comparable statistical and research data base on child maltreatment, CAPTA funds should re-authorized. However, the statute or regulations should be clarified to encourage responsible agency determinations of eligibility for CAPTA Part I funds, consistent with both logic and the intent of the Congress.

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CURRENT TRENDS IN CHILD ABUSE REPORTING AND FATALITIES: NCPCA'S 1993 ANNUAL FIFTY STATE SURVEY *

Dr. Deborah Daro, Director
Karen McCurdy, Principal Analyst
Center on Child Abuse Prevention Research

OVERVIEW

In an attempt to better determine the volume of child abuse reports and the availability of child welfare resources, the National Committee to Prevent Child Abuse (NCPCA) initiated an annual national telephone survey of child protective service (CPS) agencies in 1982. The initial surveys focused exclusively on increases in the number of reports and the effects of budget cutbacks. Beginning in 1986, NCPCA developed a more standardized instrument which focused on the number and characteristics of child abuse reports, the number of child abuse fatalities and changes in the funding and scope of child welfare services. This instrument, which has been utilized for the past nine years, provides more reliable estimates of the number of reports and fatalities across time and across states.

This document summarizes the key findings from the most recent survey. These data represent the only available estimate of the number of child abuse reports and fatalities reported in 1993.*

REPORTING RATES

As summarized in Table 1, over one million children were confirmed as victims of child abuse or neglect in 1993 and an estimated 2.9 million were reported as suspected victims of maltreatment or 45 per 1,000 children in the United States. In both cases, these figures are essentially the same number of confirmed and reported cases documented in 1992. Overall, the number of child abuse reports have increased 12% since 1990, a far slower rate of growth than was experienced in the previous decade when reports rose an average of 10% annually. While individual states continue to experience occasional dramatic shifts in their reporting levels, the national trend appears to suggest a stable reporting rate.

Of those states able to provide actual or estimated reporting figures for 1993, 67% (33 states) noted increases in the number of reports, 26% (13 states) provided actual or estimated decreases in the number of reports and 6% (3 states) reported no change from the previous year. In the majority of cases where respondents did note a change in the level of reports, these changes involved less than a 10% change from the previous year.

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* A more complete discussion of these and other findings can be found in K. McCurdy and D. Daro. Current Trends in Child Abuse Reporting and Fatalities: The Results of the 1993 Annual Fifty State Survey available from NCPCA.

Commenting on these changes, respondents frequently attributed increases in the number of reports to greater public awareness, a change in how they collected or defined a reportable act of maltreatment, and local economic conditions which placed a larger number of families under stress. Decreases in the number of reports were most commonly attributed to an elevated level of screening to eliminate those reports with a low likelihood of substantiation and the inability of the local child protective service systems to accept or process any additional reports.

As in the past years, the largest number of reports involves charges of child neglect (47% of all reports), followed by physical abuse (30% of all reports), child sexual abuse (11% of all reports) and emotional maltreatment (2% of all reports). Approximately 10% of all reports involve other forms of maltreatment such as abandonment, educational neglect and other unspecified situations. Looking only at substantiated cases, or those cases which are accepted onto child protective service caseloads, the proportion of cases involving neglect remains the same, the proportion of physical abuse cases drops to 25% and the proportion of sexual abuse and emotional maltreatment cases increases to 15% and 4% respectively. This finding suggests that cases involving charges of sexual abuse or emotional maltreatment are more likely to be confirmed by local CPS agencies than are cases involving charges of physical abuse.

SUBSTANTIATION RATES AND SERVICE LEVELS

Based on data from 37 states, it is estimated that approximately 34% of child abuse reports are substantiated following an investigation. This percentage ranged from a low of 8% to a high of 58%. Because each state applies unique standards in determining which reports will be formally investigated and what constitutes a substantiated case, caution is warranted in interpreting the meaning of this statistic within or across states. The 34% national average is slightly less than the percentages obtained in the last two surveys conducted by NCPCA. However, the actual number of cases accepted into CPS service has remained constant during this period. Based on this statistic, an estimated 1,016,000 children were substantiated as victims of child abuse and neglect in 1993, only a slight decrease over the 1,021,000 children confirmed as victims in 1992.

The percentage of confirmed cases which received child protective services increased in 1993. Based on data from 22 states, services were provided, on average, to about 70% of those children identified as having been victims of abuse or neglect. This figure represents a 10% increase over the percentage reported in 1992, but is below the 78% service figure reported in 1990. Overall, over 300,000 confirmed cases of child abuse received no services to remediate the negative consequences of maltreatment. Of those who did receive services, the most common interventions reportedly offered by the responding agencies were case management services and individual or family counseling.

CHILD ABUSE FATALITIES

As presented in Table 2, the number of child abuse fatalities have remained fairly consistent over the past four years, totaling between almost 1,100 and 1,300 annually. While the initial estimated figure for 1993 suggests a potential increase in this number compared to the previous year, this estimate is based on data from states accounting for only 60% of the U.S. child population. Estimates for the previous three years are based on data from states accounting for over 90% of the country's child population. For example, several large states such as California, New York, Pennsylvania and Michigan were unable to provide 1993 actual or estimated number of fatalities at the time of the survey. If data were available from all 50 states and the District of Columbia for all seven years, the actual rate of change and total scope of the problem could vary somewhat from these projections.

Looking across the full nine-year reporting period, the rate of child abuse fatalities has increased 50%, although the majority of this increase occurred between 1985 and 1986. In more recent years, the majority of states have not experienced dramatic shifts in the number of documented child abuse fatalities. To some extent, this consistency is surprising given the increased attention states have paid to documenting these cases through both more complete record keeping and the use of multi-disciplinary death review committees.

Throughout this period, the characteristics of these cases have remained fairly constant. Approximately 42% of these deaths occur to children known to the local child welfare system either as prior or current clients. As for the cause of death, 40% of the deaths result from physical neglect, 55% are the result of physical abuse and 5% result from a combination of neglectful and physically abusive parenting. Each year, the vast majority of these cases has involved young children. In 1993, 86% of the victims were under five years of age and 46% were under one year of age.

SUBSTANCE ABUSE AND CHILD ABUSE

Almost every state liaison cited substance abuse as a major presenting problem among their caseload. Despite the apparent widespread concern with this issue, only 11 states reported the creation of new programs focused on the connection between child abuse and substance abuse.

Based on data from those states which routinely record a family's status with respect to substance abuse as part of their investigative records (8 states), an average of 26% of all substantiated cases involved parental substance abuse. Wide variation in this figure was noted across these states, with the percentage of cases involving substance abuse ranging from 3% to 80%. Twelve states reported a total of 6,922 drug-exposed infants, a number considered by most to seriously under count the problem. As of 1993, 19 states require the reporting of drug-exposed infants while one state (Minnesota) mandates the reporting of pregnant substance abusers.

CHILD WELFARE FUNDING

Funding for child welfare services improved in 1993. Almost half of the states (24) reported an increase in funding levels for their child protective service agency in the past year while only five states (Georgia, Iowa, Massachusetts, New York and West Virginia) experienced

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budgets cuts. While the remaining 17 states maintained stable funding, this funding level often prohibited needed staff or service enhancements, particularly in the area of child abuse prevention.

The one area of new funding for child welfare intervention and prevention services available to all states is the Federal Family Preservation and Support Services Program included in President Clinton's Omnibus Budget Reconciliation Bill of 1993. Under this legislation, new federal funds are provided to state child welfare agencies for both prevention services to families in crisis and family preservation services which target families at risk of losing their children to foster care. The fiscal year 1994 appropriation for this program is $60 million growing to over $900 million by 1998.

Among those states where discussions have been initiated regarding the allocation of these resources, the majority of respondents indicated that resources will be equally divided between treatment and prevention efforts. This finding represents the first tangible investment in prevention by state child protective service agencies in recent memory.

Table 1

NATIONAL COMMITTEE TO PREVENT CHILD ABUSE
APRIL 1994

CHILD ABUSE AND NEGLECT REPORTS
ANNUAL PERCENTAGE CHANGE

State	88-89	89-90	90-91	91-92	92-93	
Alabama	7	-1	10	-2	-8	C
Alaska	-5	0	14	20	18E	R
Arizona	22	6	4	23	9	C
Arkansas	0	1	-3	9	9	R
California	13	3	3	8	7	R
Colorado	-4	12	-2	8	NA(+)	R
Connecticut	-1	-2	3	8	24	C
Delaware	-6	0	9	9	2E	C
District of Columbia	20	-4	13	15	4	C
Florida	19	NP	-1	-2	-10	C
Georgia	26	1	NP	16	8	C
Hawaii	-6	17	-1	7	1E	C
Idaho	1	11	2	15	10	R
Illinois	9	1	4	22	-4	C
Indiana	29	27	22	-10	13	C
Iowa	4	4	-2	2	3E	C
Kansas	-4	0	NP	3	12	C
Kentucky	2	7	9	9	3	C
Louisiana	1	-1	3	2	2	C
Maine	-8	-9	2	18	NA(+)	C
Maryland	5	2	8	3	NA(+)	R
Massachusetts	15	17	7	1	5	C
Michigan	2	4	-4	5	3	R
Minnesota	-5	-8	13	3	NA(+)	C
Mississippi	0	8	4	22	0	R
Missouri	7	2	4	5	7	C
Montana	7	8	8	29	-1	C
Nebraska	-2	2	9	0	3	C
Nevada	12	12	5	8	-10	R
New Hampshire	13	10	18	10	-14	R
New Jersey	3	-7	-1	-7	0E	C

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REPORTS

State	88-89	89-90	90-91	91-92	92-93	
New Mexico	49	17	21	48	-8	C
New York	7	7	-1	8	1E	C
North Carolina	31	15	35	8	23	C
North Dakota	3	11	7	10	13	C
Ohio	3	6	9	8	2E	R
Oklahoma	0	9	-15	13	9	C
Oregon	15	-5	-1	9	-2	R
Pennsylvania	6	4	-2	9	NA(-)	C
Rhode Island	16	24	1	4	-9	C
South Carolina	3	NP	-3	16	DNR	C
South Dakota	2	2	-1	-6	-2	C
Tennessee	6	1	-4	-10	7	C
Texas	13	12	14	13	2	C
Utah	12	2	13	9	2	R
Vermont	9	-1	-2	4	NA	C
Virginia	5	NP	13	7	2	C
Washington	2	0	-7	2	1	R
West Virginia	1	-7	-2	11	-7	R
Wisconsin	11	12	16	6	0E	C
Wyoming	2	9	4	0	-20	C
Average Percentage Change	+7.5%	+5.0%	+5.2%	+8.4%	+2.5%	

	1985	1986	1987	1988	1989	1990	1991	1992	1993
Estimated Number of Children Reported for Maltreatment	1,919,000	2,086,000	2,157,000	2,265,000	2,435,000	2,557,000	2,694,000	2,916,000	2,989,0
Per 1,000 U.S. Children	30	33	34	35	38	40	42	45+	45

	1991	1992	1993
Average Indicated/ Substantiated Rate	36%	35%	34%
Est # of children confirmed as victims of maltreatment	960,400	1,021,000	1,016,000
Per 1,000 U.S. Children	15	16	15

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REPORTS

E	Estimate
DNR	Did not respond to survey
NA	Not Available
NA	( ) Indicates direction of expected change, i.e. (-) decrease, (+) increase.
NP	The change could not be calculated due to a change in data collection procedures (i.e., switched from families to children)

C = change in # of children reported between 1992 and 1993
R = change in # of reports (e.g., families, incidents or reports) between 1992-93

Table 2

National Committee for Prevention of Child Abuse (NCPCA)
April 1994
CHILD ABUSE AND NEGLECT RELATED FATALITIES

State	1985	1990	1991	1992	1993
Alabama	NA	14	17	21	25
Alaska	NA	0	2	0	NA
Arizona	NA	14	12	13	24
Arkansas**	9	9	9	17	9
California	18	78	100	90L	NA
Colorado	12	31	32	34P	28P
Connecticut	6	17	5	10	16
Delaware	2	1	3	14	NA
Dist. of Columbia	NA	NA	5	11P	13P
Florida	NA	72	60	67	63
Georgia*	NA	12	13	10	12
Hawaii	1	2	5	3	0
Idaho	5	4	6	3	6
Illinois	53	75	92	77P	76P
Indiana	29	54	51	49	38
Iowa	9	9	15	10	6P
Kansas	16	11	4	6	6
Kentucky	10	20	17	24	30
Lousiana	50	28	36	23	25P
Maine	0	6	6	5	7
Maryland	8	16	38	31	29
Massachusetts	13	16	9	15	NA
Michigan**	11	NA	15	19	NA
Minnesota	6	14	13	6	NA
Missisippi	NA	12	24	13	15P
Missouri	25	26	31	46	43
Montana	2	7	8	5	0
Nebraska	2	2	4	2	4
Nevada	6	1	7	4	8
New Hampshire	NA	NA	NA	NA	NA
New Jersey**	21	38	19P	19P	26P
New Mexico	10	8	6	4	6
New York	63P	105P	109P	78P	NA
North Carolina **	4	30R	13	24	NA
North Dakota	0	0	0	0	2

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Table 2 - Fatalities

State	1985	1990	1991	1992	1993
Ohio	NA	NA	NA	41	46P
Oklahoma	16	18	38	20	23
Oregon	8	14	16	32	11
Pennsylvania	34	58	60	51	NA
Rhode Island	5	4	8	7	7
South Carolina	21	21	21	28P	NA
South Dakota	4	2	1	2	5
Tennessee*	NA	NA	NA	NA	15
Texas	113	112	97	103	114
Utah*	8	6	12	17	NA
Vermont	1	0	5	3	NA
Virginia	14	28	34	32	43
Washington	27	8	12	12	9
West Virginia	NA	1	3	2	5
Wisconsin	10	17	17	14	NA
Wyoming	3	4	4	6	1
Total Fatalities	655	1025	1114	1123	786
% of Child Population Under 18	80.7	93.3	93.2	97.7	60.5
Total Projected Fatalities Nationwide	812	1099	1195	1149	1299
Per 100,000 Children	1.3	1.72	1.86	1.76	1.96

% Change 1985 - 1993 ——50%——

% Change 1990-1993 ——14%——

L California's Dept. of Justice confirmed 69 deaths, LA county confirmed an additional 21 deaths.

P Not final #'s as some cases are still pending. For example, New York has 26 deaths still under review for 1992.

NA Not Available

R Reported Fatalities only

* These states only provide information on deaths due to abuse.

** Fatality information came from Death Review liaison.

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Current Trends in Child Abuse Reporting and Fatalities:

The Results of the 1993 Annual Fifty State Survey

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Prepared by:

The National Center on Child Abuse Prevention Research,
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CURRENT TRENDS IN CHILD ABUSE REPORTING AND FATALITIES: THE RESULTS OF THE 1993 ANNUAL FIFTY STATE SURVEY

OVERVIEW

Concern for the welfare of children, particularly those who are abused or neglected, has been longstanding among public and private social service agencies and professionals. Legislation which defines child abuse and determines the appropriate role for child welfare agencies has been a part of state statutes for over 200 years. In 1974, the Federal government adopted a more direct role in child abuse policy with the passage of the Child Abuse Prevention and Treatment Act (P.L. 93-247). Although the passage of this legislation established a set of uniform operating standards with respect to the identification and management of child abuse cases, individual states continue to determine definitions of maltreatment, investigative procedures, service systems and data collection procedures. Consequently, limited information is readily available on the scope of the child abuse problem and the availability of resources nationwide.

To provide the field with these data, the National Committee to Prevent Child Abuse (NCPCA) began collecting detailed information from all fifty states and the District of Columbia on the number and characteristics of child abuse reports, the number of child abuse fatalities and changes in the funding and scope of child welfare services in 1986. This report summarizes the findings from the most recent survey. These data represent the only available estimates of the number of children reported and substantiated as victims of maltreatment and the number of child abuse fatalities nationwide for 1993.[1]

SURVEY QUESTIONS

In February of 1994, NCPCA's National Center on Child Abuse Prevention Research sent a letter to the federally appointed liaisons for child abuse and neglect in each state and the District of Columbia requesting their support for this annual survey. A brief questionnaire accompanied the letter outlining the specific areas of interest including the following topics:

- the actual number of children reported as alleged victims of child maltreatment during 1991, 1992 and 1993;
- the number of substantiated and indicated victims for 1991, 1992 and 1993;
- the factors accounting for any observed changes in reporting levels during the past year;

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- the number of reported and substantiated cases by type of maltreatment (e.g., physical abuse, neglect, sexual abuse, and emotional maltreatment);
- other characteristics of this population such as the number of cases involving children in foster care and day care;
- the number of confirmed child abuse fatalities reported for 1991, 1992 and 1993;
- the effect of substance abuse on caseloads and the creation of new programs designed to respond to this problem; and
- the level of funding for child protective service agencies and agency attitudes toward policy reforms.

The state liaisons were contacted by telephone to obtain the above information though some replied in writing. All states except South Carolina responded by the end of March, 1994. Of the 50 respondents, 44 knew or were able to project their child abuse reporting statistics for 1993 and 37 respondents gave 1993 statistics with respect to child abuse fatalities. All 50 respondents answered general questions on their state's child welfare practices.

Estimating Procedures

A major obstacle preventing a direct count of the number of children reported and substantiated for maltreatment is the wide variation almong states' data collection procedures. For example, while all states were asked to provide the number of children reported for maltreatment, 15 states could not do so. Such states typically record reports by families or incidents rather than children. For this reason, the term "report," as used in this paper, covers all possible methods of counting (i.e., child, family, incident or case). In addition, 40 states count only investigated reports of child abuse and neglect while the remainder include all reports. These states vary in the amount of calls they exclude with 17 states screening, on average, 41% of calls though this ranged from 15% to 78%. Finally, forty-two states can only provide duplicate numbers of children reported for maltreatment. This means that if a child is reported for child abuse and neglect more than once in a year, the child would be counted more than once.

This variation in procedures precludes simply adding all reports for a grand total. Therefore, in order to arrive at an estimate of the number of unduplicated children reported in a year period, we calculate the percentage change in reported children for those states providing these numbers. For the other states, we calculate the percentage change in reports under the assumption that a similar change would have occurred in the number of children reported for maltreatment. We then compute the mean change of all states with reporting data. Finally, we take the last unduplicated count of reported children conducted in 1986 by the American Association for Protecting Children (AAPC, 1988) as the baseline number and multiply this number (2,086,000) by the mean percentage change in reports between 1988 and 1993.

These same problems hold true for determining how many children were confirmed as victims of child maltreatment. First, many states do not keep track by child. Second, the amount of initial screening of child abuse reports impacts the overall substantiation rate. In addition, states have different standards for determining whether or not maltreatment occurred. This survey asked respondents to provide the number of substantiated and indicated victims and the substantiation rate (including indicated cases) for the prior three years. We relied on these substantiation rates to calculate the national substantiation rate without attempting to standardize these figures. In this paper, the term "substantiated" includes indicated cases as well.

The procedure to estimate the number of child maltreatment fatalities confirmed by CPS agencies is more straightforward. The total number of fatalities for each state reporting these data is summed. We then calculate the percentage of the U.S. child population under 18 years old covered by the states providing these data. Finally, we use this percentage to project the number of expected fatalities for all 50 states and the District of Columbia, thereby assuming that the child abuse fatality rate of the states providing data is representative of the situation in all states.

SPECIFIC FINDINGS

Reporting and Substantiation Rates

To obtain an estimate of both the total caseload for CPS agencies nationwide and recent caseload changes encountered by these agencies, all liaisons were asked to provide the number of children reported and substantiated as victims of child maltreatment. Table 1 presents the annual percentage change in state child maltreatment reports between 1988 and 1993. Nationwide, the rate[2] of children reported for child abuse or neglect increased 50% during this period, from 30 per 1,000 children in 1985 and to 45 per 1,000 in 1993. In 1993, an estimated 2,989,000 children were reported to Child Protective Services (CPS) agencies as alleged victims of child maltreatment. This figure is based on information collected from 44 states which indicated that each state averaged a 2.5% increase in reports between 1992 and 1993.[3] As shown in Table 1, this increase is substantially less than the 8.4% rise which occurred between 1991 and 1992. Child abuse reports have maintained a steady growth between 1988 and 1993 with an average increase of about 6% each year.

Table 1

CHILD ABUSE AND NEGLECT REPORTS
ANNUAL PERCENTAGE CHANGE

State	88-89	89-90	90-91	91-92	92-93	
Alabama	7	-1	10	-2	-8	C
Alaska	-5	0	14	20	18E	R
Arizona	22	6	4	23	9	C
Arkansas	0	1	-3	9	9	R
California	13	3	3	8	7	R
Colorado	-4	12	-2	8	NA(+)	R
Connecticut	-1	-2	3	8	24	C
Delaware	-6	0	9	9	2E	C
District of Columbia	20	-4	13	15	4	C
Florida	19	NP	1	-2	-10	C
Georgia	26	1	NP	16	8	C
Hawaii	-6	17	-1	7	1E	C
Idaho	1	11	2	15	10	R
Illinois	9	1	4	22	-4	C
Indiana	29	27	22	-10	13	C
Iowa	4	4	-2	2	3E	C
Kansas	-4	0	NP	3	12	C
Kentucky	2	7	9	9	3	C
Louisiana	1	-1	3	2	2	C
Maine	-8	-9	2	18	NA(+)	C
Maryland	5	2	8	3	NA(+)	R
Massachusetts	15	17	7	1	5	C
Michigan	2	4	-4	5	3	R
Minnesota	-8	-8	13	3	NA(+)	C
Mississippi	0	8	4	22	0	R
Missouri	7	2	4	5	7	C
Montana	7	8	8	29	-1	C
Nebraska	-2	2	9	0	3	C
Nevada	12	12	5	8	-10	R
New Hampshire	13	10	18	10	-14	R
New Jersey	3	-7	-1	-7	0E	C

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State	88-89	89-90	90-91	91-92	92-93	
New Mexico	47	17	21	49	-8	C
New York	7	7	-1	8	1E	C
North Carolina	31	15	35	8	23	C
North Dakota	3	11	7	10	13	C
Ohio	3	6	9	8	2E	R
Oklahoma	0	9	-15	13	9	C
Oregon	15	-5	-1	9	-2	R
Pennsylvania	6	4	-2	9	NA(-)	C
Rhode Island	16	24	1	4	-9	C
South Carolina	3	NP	-3	16	DNR	C
South Dakota	2	2	-1	-6	-2	C
Tennessee	6	1	-4	-10	7	C
Texas	13	12	14	13	2	C
Utah	12	2	13	9	2	R
Vermont	9	-1	-2	4	NA	C
Virginia	5	NP	13	7	2	C
Washington	2	0	-7	2	1	R
West Virginia	1	-7	-2	11	-7	R
Wisconsin	11	12	16	6	0E	C
Wyoming	7	9	4	0	-20	C
Average Percentage Change	+7.5%	+5.0%	+5.2%	+8.4%	+2.5%	

	1985	1986	1987	1988	1989	1990	1991	1992	1993
Estimated Number of Children Reported for Maltreatment	1,919,000	2,086,000	2,157,000	2,265,000	2,435,000	2,557,000	2,694,000	2,916,000	2,989,000
Per 1,000 U.S. Children	30	33	34	35	38	40	42	45	45

	1991	1992	1993
Average Indicated/Substantiated Rate	36%	35%	34%
Est # of children confirmed as victims of maltreatment	968,400	1,021,000	1,016,000
Per 1,000 U.S. Children	15	16	15

E	Estimate .
DNR	Did not respond to survey
NA	Not Available
NA	( ) Indicates direction of expected change, i.e. (-) decrease, (+) increase.
NP	The change could not be calculated due to a change in data collection procedures (i.e., switched from families to children)
C =	change in # of children reported between 1992 and 1993
R =	change in # of reports (e.g., families, incidents or reports) between 1992-93

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The increase in children reported between 1992 and 1993 is not as sharp as the previous year's growth. Between 1991 and 1992, 43 states had an actual increase in reports while only 33 states experienced this rise in 1993. Of these 33 states, seven experienced increases of 10% or more. In contrast, 13 respondents noted actual or expected declines in their reports with four showing declines of at least 10%. Three states, Mississippi, New Jersey and Wisconsin, reported virtually no change.

As shown in the bottom half of Table 1, 15 out of every 1000 U.S. children were substantiated as victims of child maltreatment. This rate has remained fairly steady over the past three years. The 1993 rate is based on data from 37 states averaging a 34% substantiation rate. During this year, rates ranged from a low of 8% in New Hampshire to a high of 58% in Connecticut. Using this statistic, an estimated 1,016,000 children were substantiated as victims of child abuse and neglect in 1993. States which could not provide a substantiation rate for any of these years include California, Washington and West Virginia.

Factors Accounting for Reporting Changes

To help determine whether changes in reporting rates represent an actual increase in child abuse or merely reflect a more accurate assessment of the problem, we asked each liaison to name the two most significant factors which accounted for the reporting trends in their state. While these answers are not based on quantitative data, they give a descriptive appraisal of those factors CPS administrators consider the most relevant. Thirty-two of the 33 states with an increase responded to this question. Seventeen or 53% of responding states attributed the rise in reports to **increased public awareness** with many states noting the influence of media attention on the issue. Change either in the **reporting system or procedures** represented the next most common response, cited by 10 states (33%). Finally, 33% or 10 states cited **economic conditions or fewer resources** as a major contributor to growth in reports.

The responses of the two states with the largest increases reflect the impact of changes in the reporting system. For example, the Connecticut liaison stated that a number of new policies regarding the intake and acceptance of cases contributed to that state's 24% increase in reports. These policies have broadened the criteria for investigating cases. The liaison also noted that unemployment, substance abuse and rising violence account for some of the increase in reports. In North Carolina, which saw a 23% increase in reports, the implementation of direct on-line data entry by county staff in 1992 resulted in a better count of actual reports. In addition, the state instituted a biannual review of CPS programs which has increased accountability and led to more accurate data collection on reports.

Six of the thirteen states with an actual or predicted decrease in reports gave explanations for the change. Four states indicated that modifications in counting procedures, definitions or increased screening partially caused the decrease. For example, Wyoming, which experienced the greatest decline in reports (-20%), stated that a change in the rules narrowing the definition of cases acceptable for investigation by child protective services accounted for much of the decrease. Allegations of abuse by non-caregivers will be handled by police instead of CPS. Only the state liaison in New Mexico felt that the decline in reports may be due to the success of prevention programs which were first initiated four years ago.

Unlike last year, most respondents stated that the 2.5% climb in the number of children reported between 1992 and 1993 was caused by an increase in public awareness or more accurate data collection rather than an actual increase in maltreatment. The fact that both the rate of reporting and substantiating child abuse remained unchanged over the last year may suggest the maltreatment patterns have stabilized. While some respondents suggested that this stabilization has occurred because the child protective system has reached maximum capacity and cannot process any additional reports, an alternative explanation may be that violence in families is leveling off. Unfortunately, the data collected for this study are not sufficient to identify the causes of this trend.

Case Characteristics

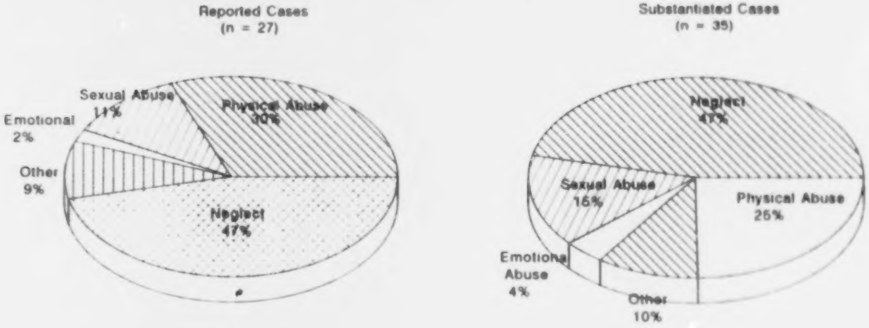
Breakdown by Type of Abuse

To provide appropriate prevention and treatment services, it is necessary to determine the prevalence of different types of maltreatment as well as other characteristics of the CPS caseload. Each state liaison was asked to provide a breakdown of all reported and substantiated cases by type of maltreatment for 1992 and 1993. Five categories were provided: physical abuse, sexual abuse, neglect, emotional maltreatment and other. Twenty-five states provided reporting data for both years while 32 states gave a breakdown for substantiated cases for both years. These numbers indicated that no significant changes occurred in the types of cases being reported and substantiated by each state during two year this period.

As Table 2 indicates, neglect represents the most common type of reported and substantiated form of maltreatment. In 1993, 27 states provided the following breakdown for reported cases: 47% involved neglect, 30% physical abuse, 11% sexual abuse, 2% emotional maltreatment and 9% other. For substantiated cases, 35 states gave the following breakdowns: neglect 47%, physical abuse 25%, sexual abuse 15%, emotional maltreatment 4% and other 10%. The distribution of cases across maltreatment types varies by reported versus substantiated cases. For example, physical abuse constitutes a significantly greater percentage of reported cases (30%) than substantiated cases (25%) ($t=2.48$, $p=.02$ df(24)). Sexual abuse, on the other hand, comprises a higher percentage of

Table 2

Breakdown by Type of Abuse and Neglect for 1993



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substantiated (15%) cases than reported cases (11%) at a close to significant level ($t=1.86$, $p<.1$). This finding suggests that states are less likely to substantiate reports of physical abuse and more likely to substantiate cases of sexual abuse. The reasons for these patterns are unclear. This trend may reflect confusion among reporters over what constitutes physical abuse but consensus on the definition of sexual abuse.

Great variation exists in the ways states classify cases. For example, three states (Indiana, Kansas and North Carolina) do not separate physical and sexual abuse for reported cases but do so for substantiated cases. In 1993, 17 states did not have a separate classification for reported cases of emotional maltreatment while 11 did not have this classification for substantiated cases. Several states included less severe forms of neglect in the "other" category. A number of other states had unique reporting patterns. For example, CPS in Pennsylvania refers most neglect reports to another agency and does not include these reports in their statistics. Both the District of Columbia and New York indicated that neglect accounted for over 80% of all substantiated cases. In Hawaii, physical abuse represented over 50% of both reported and substantiated cases while Arizona classified over 40% of its substantiated cases as "other."

Overall, the distribution for all reported cases differs from the 1986 breakdown reported by AAPC (1988): 26% of all reports involved charges of physical abuse, 16% involved charges of sexual abuse, 55% involved charges of child neglect, 8% involved charges of emotional maltreatment and 8% involved other or unspecified forms of maltreatment (AAPC, 1988). The variation in these statistics is partially explained by the fact that the AAPC (1988) study counted all allegations per child while most states in the present study reported only the primary allegation presented in each case. Such a system may tend to under count the true incidence of neglect reports in that this form of maltreatment frequently occurs in conjunction with other types of abuse deemed more serious by the investigators. While the percentage of all reports involving charges of child sexual abuse and emotional maltreatment reports remain significantly higher than the numbers reported in 1986. A possible explanation for this pattern is that although reports of child sexual abuse continue to increase, this increase is slower than the rate of increase occurring among reports of physical abuse and neglect, forms of maltreatment that are more likely to be influenced by general economic conditions, substance abuse rates or community violence. Further, as noted above, the percentage of substantiated or indicated cases involving child sexual abuse has remained virtually unchanged since 1986, suggesting that this form of maltreatment, once reported, is more likely to be accepted as a child protective service case than are other forms of maltreatment.

Day Care/Foster Care

Reports of child maltreatment involving day care centers and foster care homes attract a great deal of attention from the media and the general public. Such publicity has created the perception that abuse is common place in these out-of-home settings. However, this perception seems out of line with reality (Finkelhor, Williams & Burns, 1988). According to the 23 states that provided this statistic for 1992, less than 1% of confirmed abuse cases occurred in day care centers or foster care settings. These figures have been consistent over the past seven years.

To address the fears caused by this perception as well as prevent future maltreatment, at least 32 states have created some type of registry of convicted or substantiated offenders which can be accessed by others outside of the child protective service system. In most cases, these registries enable day care operators and others in state agencies to screen prospective employees for a history of child maltreatment. A similar registry has been proposed at the federal level to prevent offenders from crossing state lines to gain employment in child-related fields.

Abandonment

Twenty-one states provided 1993 data on child abandonment. These states reported a total of 11,030 confirmed cases of child abandonment. In contrast, 9,224 confirmed cases of child abandonment were reported by 23 states in 1993. When asked to define child abandonment, the majority of states described flexible guidelines which take into account the age and maturity of the child, the time left alone and other relevant factors.

Primary Presenting Problems

Families reported for child maltreatment often display a number of problems which can contribute to their likelihood for engaging in abusive behavior. Identifying these problems is a first step toward prevention. To assess whether specific patterns are shared by families on CPS caseloads across the country, respondents were asked to describe the major problems presented by their caseloads. Forty-six state liaisons responded to this question with 63% (29 states) naming **substance abuse** as one of the top two problems. A similar percentage selected this response in 1992.

The next most frequent response involved the **need for support services** for families. Thirty-nine percent of respondents (18 states) noted that the families on their caseloads lacked support from family and community sources. Several liaisons mentioned that the challenge of single parenthood was a problem for many of their families. Related to this issue was the belief that **economic stress** and poverty characterized a large percentage of families served by child protective services. Thirty-five percent (16 states) indicated that most families on their caseloads either lived in poverty or faced increased financial stress due to unemployment and the recession. These families have insufficient resources to care for their children.

Three other problems were noted by a significant number of states. Eleven states asserted that **lack of knowledge** of child care and development, lack of parenting skills and inappropriate child management techniques represented a primary problem for these families. Six states identifed **family or domestic violence** as a major difficulty for their families. Finally, six other liaisons noted a heavy conentration of **fragmented families** on their caseloads.

Services to Abusive Families

A critical question concerns what happens to the child or family after a case has been substantiated. One study found that CPS social workers did not provide any service in almost 60% of the agency's confirmed cases (Meddin & Hansen, 1985) while a review of New York cases found that almost 56% of all indicated cases are closed the same day they are officially substantiated (Salovitz & Keys, 1988). In the current survey, only 22 states could provide an estimate as to the percentage of substantiated cases which received CPS services. Figures ranged from 15% to 100% with an average of 70% receiving some type of service. This figure represents a 10% increase over the percentage reported in 1992 but is below the 78% service figure found in 1991. Over 300,000 confirmed cases of child abuse received no services to remediate the negative consequences of maltreatment. Of those who did receive services, the most common interventions reportedly offered by the responding agencies were case management services and individual or family counseling.

One service utilized by child protective service agencies is removal of the child from the home either during the investigation or after the allegation of maltreatment has been substantiated. When asked the total number of children removed from the home where abuse occurred, 22 states provided figures for 1993. Over 79,000 children from these states were placed in alternative care for some period of time in 1993. For the seventeen states who provided both the number of children removed and the number of child victims, approximately 17% of child victims were removed from the home in 1993 as compared to 18% in 1992 (based on data from 21 states).

Child Maltreatment Fatalities

One of the greatest tragedies is the death of a child from abuse or neglect. Although such deaths are relatively infrequent, the rate of child matlreatment fatalities confirmed by CPS agencies has risen steadily over the past eight years. As shown in Table 3, the rate of fatalities rose from 1.3 per 100,000 to 1.69 between 1985 and 1993, a fifty percent increase. In 1993, an estimated 1,299 children died from abuse or neglect. As noted in Table 3, this estimate is based on data from 37 states comprising 60.5% of the U.S. population under eighteen years of age. Estimates for earlier years are based on at least 80% of the child population. If data were available from all 50 states and the District of Columbia for all eight years, the actual rate of change and total

Table 3

CHILD ABUSE AND NEGLECT RELATED FATALITIES

State	1985	1990	1991	1992	1993
Alabama	NA	14	17	21	25
Alaska	NA	0	2	0	NA
Arizona	NA	14	12	13	24
Arkansas**	9	9	9	17	9
California	18	78	100	90L	NA
Colorado	12	31	32	34P	28P
Connecticut	6	17	5	10	16
Delaware	2	1	3	14	NA
Dist. of Columbia	NA	NA	5	11P	13P
Florida	NA	72	60	67	63
Georgia*	NA	12	13	10	12
Hawaii	1	2	5	3	0
Idaho	5	4	6	3	6
Illinois	53	75	92	77P	76P
Indiana	29	54	51	49	38
Iowa	9	9	15	10	6P
Kansas	16	11	4	6	6
Kentucky	10	20	17	24	20
Lousiana	50	28	36	23	25P
Maine	0	6	6	5	7
Maryland	8	16	19	31	29
Massachusetts	13	16	9	15	NA
Michigan**	11	NA	15	19	NA
Minnesota	6	14	13	6	NA
Missisippi	NA	12	24	13	15P
Missouri	25	26	31	46	43
Montana	2	7	8	5	0
Nebraska	2	2	4	2	4
Nevada	6	1	7	4	8
New Hampshire	NA	NA	NA	NA	NA
New Jersey**	21	38	19P	19P	26P
New Mexico	10	8	6	4	6
New York	63P	105P	109P	78P	NA
North Carolina **	4	30R	13	24	NA
North Dakota	0	0	0	0	2

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State	1985	1990	1991	1992	1993
Ohio	NA	NA	NA	41	46P
Oklahoma	16	18	38	20	23
Oregon	8	14	16	32	11
Pennsylvania	34	58	60	51	NA
Rhode Island	5	4	8	7	7
South Carolina	21	21	21	28P	NA
South Dakota	4	2	1	2	5
Tennessee*	NA	NA	NA	NA	15
Texas	113	112	97	103	114
Utah*	8	6	12	17	NA
Vermont	1	0	5	3	NA
Virginia	14	28	34	32	43
Washington	27	8	12	12	9
West Virginia	NA	1	3	2	5
Wisconsin	10	17	17	14	NA
Wyoming	3	4	4	6	1
Total Fatalities	655	1025	1114	1123	786
% of Child Population Under 18	80.7	93.3	93.2	97.7	60.5
Total Projected Fatalities Nationwide	812	1099	1195	1149	1299
Per 100,000 Children	1.3	1.72	1.86	1.76	1.96

% Change 1985 - 1993 -----50%------

% Change 1990-1993 -----14%------

L California's Dept. of Justice confirmed 69 deaths, LA county confirmed an additional 21 deaths.

P Not final #'s as some cases are still pending. For example, New York has 26 deaths still under review for 1992.

NA Not Available

R Reported Fatalities only

* These states only provide information on deaths due to abuse.

** Fatality information came from Death Review liaison.

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scope of the problem could vary somewhat from these projections.

Between 1990 and 1993, death rates rose by 14%. This increase should be viewed with caution as 14 states did not provide the number of child maltreatment fatalities for 1993 including three states with large child populations (California, New York and Pennsylvania). It also should be noted that seven states still had some number of deaths under investigation at the time of the survey.

These figures suggest that for the past four years, at least three children die each day in the U.S. as a result of maltreatment. In addition, data from other studies and anecdotal information from liaisons strongly suggest that these numbers undercount the actual incidence of maltreatment fatalities in the U.S. Research has consistently found that some percentage of accidental deaths, child homicides and sudden infant death syndrome (SIDS) cases mgith be more appropriately labeled a child maltreatment death if comprehensive investigations were routinely conducted (California Office of the Auditor General, 1988; Ewigman, Kivlahan & Land, 1993; McClain, Sacks, Froehlke & Ewigman, 1993; Mitchel, 1987). A recent study by McClain et al (1993) utilizing a mathematical model to estimate the total numbers of child abuse and neglect deaths found that child maltreatment fatalities remained relatively stable between 1979 and 1988 with between 949 to 2022 deaths each year. This study also concluded that 85% of deaths due to parental maltreatment were coded as due to some other cause on the child's death certificate.

To better understand how and why child abuse fatalities occur, we examined four characteristics of these deaths for the past three years: 1) involvement of the victim with CPS agencies, 2) type of maltreatment leading to death, 3) the ages of the child victims and 4) the involvement of parental substance abuse. Table 4 presents the results. According to information from at least 23 states, 42% of the children who died between 1991 and 1993 had prior or current contact with CPS agencies. This substantial percentage may reflect the fact that many states only investigate deaths of children with current or prior CPS contact, thereby ensuring that a high percentage of the reported deaths will involve such children.

At least 29 states were able to report the type of maltreatment which caused the child's death. These percentages remained fairly stable over the years. Between 1991 and 1993, 40% died from neglect, 55% died from abuse while 5% died as a result of both forms of maltreatment. Young children remain at high risk for loss of life. Based on data from all three years, this study found that 86% of these children were under the age of five while an alarming 46% were under the age of one at the time of their death. In 1993, the rate of fatalities for children under five was 5.7 per 100,000 children; for children under one, 14.5 per 100,000 children. These numbers correspond with other studies (AAPC, 1988) and emphasize the vulnerability of young children to child abuse and neglect. Lastly, parental substance abuse was linked to 29% of

Table 4

Breakdown of Child Maltreatment Fatalities

	1991 %	1992 %	1993 %	Total %
Prior or Current Contact with CPS	40 28 states	43 31 states	42 23 states	42
Deaths Due to Neglect	39 34 states	38 35 states	43 29 states	40
Deaths Due to Abuse	56 34 states	57 35 states	51 29 states	55
Deaths Due to Neglect and Abuse	5 34 states	5 35 states	6 29 states	5
Deaths to Children Under Five Years Old	88 30 states	83 28 states	86 22 states	86
Deaths to Children Under One Year Old	48 30 states	44 28 states	46 22 states	46
Deaths related to Parental Substance Abuse	25 15 states	33 14 states	30 12 states	29

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these deaths. This statistic, however, is based on data from only 12 states which restricts its reliability as a national average.

Death Review Committees

Whether a state has a death review committee and that committee's function also influence the ability of CPS to provide an accurate count of fatalities. According to this survey, at least 30 states have some type of death review committee in place.[4] In contrast, material provided by Michael Durfee states that 26 states have state review teams and 9 have local teams. The number of deaths reviewed by these committees varied. For the 14 states which could provide this number, 1,407 child deaths were reviewed in 1993. The majority of committees only investigate the deaths of children with previous or current CPS involvement, or deaths which are reported to CPS agencies as due to abuse or neglect.

Substance Abuse

As noted earlier, the majority of states cited substance abuse as a major presenting problem of families on their caseloads. The increased use of drugs and alcohol by caregivers also was noted by several states as a primary factor in driving up reporting levels. In this survey, we sought to identify ways in which states and CPS agencies have responded to this epidemic. First, we asked for an estimate of the number of substantiated cases involving substance abuse. For the eight states responding, an average of 26% of the substantiated cases in these states involved substance abuse though the percentage ranged from 3% to 80%. The fact that only eight states could provide this data suggests a great lack of empirical data regarding the connection between these two problems.

While several states currently operate programs to address the impact of substance abuse on child abuse, less than 10 states created new programs to address this issue during the last year. Some examples of these programs include the provision of respite care and other services for foster parents of drug-exposed children in Delaware; statewide training of counselors to work with dual populations in Maryland and a home visiting program for substancing abusing mothers who maltreat their children in Kalamazoo, Michigan.

One well-known result of increased substance abuse by women is the growing number of infants born exposed to illegal substances taken by their mother during pregnancy. Estimates on the scope of this problem vary substantially from 100,000 to 350,000 infants nationwide (Chicago Tribune, 1991; Chasnoff, 1988). In 1993, twelve states reported a total of 6,922 drug-exposed infants. No state requires the uniform testing of infants for drug-exposure. Several states have responded to this problem by mandating that medical personnel and others report to CPS drug-exposed infants or substance abusing pregnant women. As of 1993, at least 19 states require the reporting of drug-exposed babies[5] while one state (Minnesota) mandates the reporting of pregnant substance abusers.

Child Protective Services

The ability of the child protection system to respond to the continued increase in reports and child abuse fatalities largely depends on the resources available. The amount of funding CPS agencies receive dictates whether reports get investigated, victims receive services or efforts are made to prevent maltreatment before a family enters the system. In this section, we investigate not only changes in child welfare budgets, but plans for spending future resources designed to prevent child abuse.

For the first time in four years, funding for child protective services improved. Twenty-four out of 46 states (52%) reported an increase in resources between 1992 and 1993. Five states (Georgia, Iowa, Massachusetts, New York and West Virginia) experienced budget cuts. While the remaining 17 states maintained stable funding, this funding level often prohibited needed staff or service enhancements, particularly in the area of child abuse prevention. Though 24 states reported an increase in funding, this did not necessarily translate into more staff. In 1993, nineteen states (40%) hired new investigatory staff, 18 states (35%) increased the number of case managers and 17 (33%) were able to enlargen their supervisory staff.

The one area of new funding for child welfare intervention and prevention services available to all states is the Federal Family Preservation and Support Services Program included in the Omnibus Budget Reconciliation Bill of 1993. Under this legislation, new federal funds are provided to state child welfare agencies for both prevention services to families in crisis and family preservation services which target families at risk of losing their children to foster care. The fiscal year 1994 appropriation for this program is $60 million, growing to over $900 million by 1988.

When asked how the state planned to allocate these resources, the majority of respondents indicated that about half of the funds would be directed toward family support services and half toward family preservation services. Some respondents indicated that the high level of spending for family support or prevention services was going to occur because these states had already spent large sums on family preservation services. This findings suggests that states are about to make the first tangible investment in child abuse prevention in recent memory.

To assess the future availability of other prevention services, the survey asked respondents some questions regarding home visiting services. The National Committee to Prevent Child Abuse has launched a nationwide prevention initiative called Healthy Families America (HFA) to provide home visiting services to parents of newborns. The purpose of HFA is to ensure that all new parents, particularly those at high risk for child maltreatment, get off to a good start. Respondents were asked whether they had heard of this initiative and if their state CPS agency was involved in HFA. While the overwhelming majority (42 states) had heard of

HFA, only 28 respondents stated that they were involved in this initiative. Several CPS liaisons who reported no involvement noted that the state's Department of Health was active in this initiative. Additionally, 29 state liaisons indicated that some type of home visiting program was now available in their state.

The final set of survey questions sought to determine the relative importance of a variety of potential reforms in child protective services. Respondents were asked to rank order five policy initiatives in order of importance to them. These responses represent the views of the liaison and may be different from the view of the agency. According to the 46 liaisons who answered this question, the government should invest its resources in the following order (starting with the most important):

- expanding family preservation services
- providing support services to parents of newborns
- providing therapeutic services to all child abuse victims and their families
- investigating all reports of child abuse and neglect
- agressively prosecuting child maltreatment offenders.

Almost every state liaison ranked prosecuting offenders as the least important. Less than ten states thought that providing therapeutic services to all victims or investigating all reports should be the most important area for investing government resources.

CONCLUSION

It appears that the national rate of reporting and substantiating cases of child abuse may be levelling off. States which had increases in reports primarily attributed the rise to public awareness or more improved data collection methods rather than an increase in the actual incidence of maltreatment. Whether this reflects stabilization in rates of family violence or a CPS system stretched to its limit is unclear. What is clear is that the past strategies for responding to child abuse have not resulted in a noticeable reduction in this problem. Neglect still represents the bulk of maltreatment cases; a large portion of victims do not receive any treatment to offset the negative impact of abuse; and infants remain at high risk to die from abuse and neglect.

This survey did find some good news. Funding for child protective services increased for the majority of states. More importantly, states and the federal government are beginning to recognize the need to invest resources in prevention of child abuse. States are planning to use federal dollars in the area of family support services and several states have committed their own funds to home visiting services for high risk families.

While these represent critical first steps toward turning the tide against child abuse, the findings of the survey also suggest the need for the following policy recommendations:

- definitions of maltreatment and methods for collecting data should be consistent across all states in order to identify the extent of the problem and the impact of CPS services on families;
- greater resources should be directed toward the treatment and prevention of neglect;
- prevention efforts need to be focused toward parents of young children, particularly those parents already known to CPS agencies, in order to prevent child abuse fatalities;
- states need to collect consistent information on the impact of substance abuse on caseloads;

The failure to reduce the number of child maltreatment reports and fatalities clearly indicates that the present system is not meeting the needs of children. While states have started to move beyond protection by investing in supportive and preventive programs, the creation of a comprehensive child abuse prevention system which ties families into other supportive services is needed to substantially improve the lives of children in the United States.

Endnotes

1. In 1989, the federal government established the National Child Abuse and Neglect Data System (NCANDS) which is a voluntary data collection and analysis system on child maltreatment. NCANDS is designed to collect summary and case level data from all states on an annual basis. NCANDS most recent report is entitled Working Paper 2: 1991 Summary Data Component, (May, 1993).

2. The rates for reports and fatalities between 1985 and 1989 are based upon population estimates from U.S. Bureau of the Census, Current Population Reports, Series P-25, No. 1058, State Population and Household Estimates: July, 1989, U.S. Government Printing Office, Washington, DC, 1990. The rates for 1990 to 1992 are based upon population estimates from U.S. Bureau of the Census, Statistical Abstract of the United States: 1992 (112th Edition), Washington, DC, 1992.

3. Several states updated their reporting figures for 1991 and 1992. This survey reflects these revisions. As a result, the annual percentage change and total estimated child reports for these years differ from the figures published in the 1991 annual fifty state survey. The more recent statistics have greater reliability.

4. States with some type of death review committee include Alaska, California, Colorado, Connecticut, District of Columbia, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Washington and Wyoming.

5. These states require the reporting of drug-exposed babies: Arizona, Delaware, District of Columbia, Hawaii, Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington and Wisconsin.

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TESTIMONY OF

THE CHILD WELFARE LEAGUE OF AMERICA

SUBMITTED TO THE ECONOMIC AND

EDUCATIONAL OPPORTUNITIES

SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH, AND FAMILIES

ON THE CHILD CARE AND DEVELOPMENT BLOCK GRANT AND THE CHILD AND ADULT CARE FOOD PROGRAM

JANUARY 31, 1995

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The Child Welfare League of America (CWLA) appreciates the opportunity to submit testimony on the Child Care and Development Block Grant (CCDBG) and the Child and Adult Care Food Program. CWLA is a membership organization representing 800 public and voluntary child-serving agencies that assist 2.5 million vulnerable children and their families each year. More than 200 of these agencies provide or fund child care services.

CWLA strongly urges members of this Subcommittee to maintain full support for the Child Care and Dependent Block Grant and the Child and Adult Care Food Program. Federal child care investments through the block grant are essential to assist low-income, non-AFDC working families stay in the job market and improve their lives. The CCDBG must also continue to assist states in providing a healthy and safe environment for children in child care.

THE CHILD CARE AND DEVELOPMENT BLOCK GRANT HAS GIVEN STATES FLEXIBILITY

Responding to the lack of affordability and availability of child care for low-income, working families, Congress created the Child Care and Development Block Grant, a landmark comprehensive child care program enacted in 1990 with bipartisan support. The program has provided quality child care for children across the country, has allowed states the flexibility they need to administer the program, and has allowed more and more parents to enter or remain in the workforce.

States, which have flexibility to determine their own needs and develop their own solutions, have used the CCDBG funds to serve more children from low-income, working families, to establish statewide networks of child care resource and referral services to help parents with informed choices and develop new resources, to begin and/or expand training and professional development opportunities to improve the quality of child care, and to improve facilities. One of its most essential features is that it includes funds for quality improvements in child care for all children and families.

THE CHILD CARE AND DEVELOPMENT BLOCK GRANT HELPS PARENTS WORK AND STAY ECONOMICALLY SELF-SUFFICIENT

Providing child care helps families become and remain self sufficient. In FY 1992, for which the latest data are available, the U.S. Department of Health and Human Services reports that 353,000 families with 571,000 children received child care services paid for by CCDBG funds. All children received care in order for their parents to work. Nearly one-quarter of all participating children were served in order for their parents to participate in training and education programs. Sixty-seven percent of the children served were in families who had income at or below the poverty level. An additional 22 percent of the children served are in families whose income was at or below 150% of the poverty level. Here are just a few examples of the benefits of this program to parents and providers across the country:

- A **parent** in **Massachusetts** who was able to find subsidized child care because of the Block Grant reflected: "we moved during a difficult time for us. The center was such an unexpected find that I could not believe our good luck. My daughter loved her day care from the very first and while we both found our new life, it was a constant comfort to us. She could not be in better hands and would find consistency and safe haven among friends and loving adults."
- A **state administrator** in **New Mexico** commented, "the block grant funds provided an opportunity for a state like New Mexico to build an infrastructure." The block grant funding more than doubled the services to children from low-income working families, built a system of contract and vouchers, and developed a resource and referral network.
- A **family child care provider** in **New Mexico** said, "the training I received enabled me to obtain a CDA and I am about to complete my Associate's Degree. It has me feel better about myself." This provider now acts as a mentor to new family child care providers.
- A **day care director** in **Minnesota** whose program received block grant funds to provide anti-bias, multi-cultural curriculum training noted, "It was wonderful. I have seen the difference it has made. Parents have commented and expressed appreciation of the introduction of more culturally sensitive materials in the classrooms."
- A **director of a statewide child care association** in **Pennsylvania** told us that the funds helped raise reimbursement rates for the first time in 10 years "much needed infusion of dollars. With higher rates, more providers and centers now participate in the program which offers more choices for parents." Pennsylvania now serves almost 14% more children.
- In **Illinois**, the **director of a facilities fund** commented, "with in the increase in demand for child care because of the expansion in federal subsidies, both through the block grant and family

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support act, created a crisis in Illinois. There was not enough physical space for new or expanded programs. The child care block grant was used in partnership with private lending dollars to make capital investments. It brought together private, state and federal dollars to begin to answer one of the problems facing the child care system: quality space."

- In **Maine**, a **child care director** reported that "with these funds, staff to child ratios were improved restoring them to previous levels that were cut when the state cut back child care funding in earlier years."

- and, from a **child care resource and referral staff member** in **California**, we learned that "the block grant was used to expand respite care services by providing services for longer period, to many more children, and by expanding the eligibility base to include prevention. Block grant funds were also matched with private resources to serve teen parents who needed child care."

These stories highlight just the beginning of what can be done with the CCDBG funds. Innovative, creative programs are being funded to meet a variety of needs unique to each state, as well as needs common across states such as affordability of care for low-income working families and adequate compensation for child care professionals. The Block Grant allows each state to assess its own needs and support activities to meet those needs within a structure that also ensures a minimal level of health and safety accountability in each state, dedicates resources to improve the quality and increase the supply and availability of child care for all families, and allows parents to make the most appropriate choice for the care of their children by ensuring adequate reimbursement rates to purchase that care.

CHILD CARE AND DEVELOPMENT BLOCK GRANT PROMOTES GOOD QUALITY CHILD CARE THAT HELPS CHILDREN LEARN

Quality child care has a very positive impact on the lives of young children. The Carnegie Corporation's 1994 report entitled, *Starting Points*, found that "quality child care enables a young child to become emotionally secure, socially competent, and intellectually capable." The report stated that "children who receive warm and sensitive caregiving are more likely to enter school ready and eager to learn." On the other hand, inadequate or barely adequate care is a powerful predictor of dropping out of school and of delinquency.

Recent studies suggest that the quality of much child care provided in the U.S. may be seriously deficient. *The Study of Children in Family Child Care and Relative Care* by the Families and Work Institute in 1994 found that care was inadequate and "growth-harming" in 35 percent of the homes studied and that less than 10 percent were actually rated as good quality. *The National Child Care Staffing Study* by the Child Care Employee Project found similar findings in center-based child care programs. Both studies identified indicators or predictors of high-quality care.

High-quality, more attentive and responsive care is provided when the care is regulated, higher rates are charged, and the family child care providers follow standard business and safety practices. Family child care providers who are committed to caring for children, seek out opportunities to learn more about child care and child development, have higher levels of education, participate in family day care training, and seek out other providers, formally or informally, tend to provide high-quality care. Higher wages and better compensation and working conditions are also predictors of high-quality care in center-based child care programs. The level of education of the teaching staff is also related to the quality of care.

In the Committee for Economic Development's 1990 report, *Why Child Care Matters*, quality child care is defined as providing a nurturing, safe, and stimulating environment for children that promotes the healthy growth and development of children.

According to a Child Trends study in 1991, children in families on AFDC -- who are nearly one-third more likely to suffer either from delays in growth and development, a significant emotional or behavioral program, or a learning disability -- have a greater need for more comprehensive and high-quality services than other children. Children receiving AFDC benefits who do not have the opportunity to participate in Head Start should have access to good-quality child care services.

For young children living in poverty, high-quality programs have lasting benefits and a significant return on investment. *The High/Scope Perry Preschool Study through Age 27* found a $7.16 return for each $1.00 invested. Savings were due in part to reduced special education and welfare costs and higher future worker productivity.

Sufficient resources, an improved infrastructure, and adequate rate reimbursements are necessary to ensure that all children have access to good quality child care and that parents have real choices to select good care for their children. In the first year of CCDBG expenditures 43 percent of the quality improvement activities were used on resource and referral activities to help parents make informed choices and develop new child care resources; 32 percent to help states monitor child care programs; 15 percent for training and technical assistance activities; and 10 percent for grants and loans to improve a state's own standards for the delivery of child care services.

CHILD CARE SUPPORT FOR LOW INCOME WORKING FAMILIES IS IN SHORT SUPPLY

Although work has begun in earnest, so much more still needs to be done. A January, 1994 Children's Defense Fund report found that over 35 states report waiting list for low-income working families:

- ○ Florida reported over 25,000 children on its waiting list
- ○ Alabama had over 8,000 children
- ○ Georgia had over 15,000
- ○ California reported that it takes 2 to 3 years on its list before one receives subsidies
- ○ Iowa had over 5,000 children on its list in March, 1993
- ○ Illinois had over 30,000 children
- ○ Maryland had over 4,000 families
- ○ Nevada had over 16,000 children
- ○ Pennsylvania had over 6,000 children

The number of children waiting for child day care services will continue to grow and more low-income, non-AFDC, working families will not be served if child care for AFDC families is not guaranteed under proposals to reform our welfare system and is included in the Child Care and Development Block Grant.

GUARANTEED CHILD CARE IS ESSENTIAL IN ANY WELFARE REFORMS

Child care is necessary for parents to move from welfare to work. Any proposals to reform welfare reform must continue our commitment to provide child care for all participants receiving AFDC so that other state and federal child care investments can serve low-income working families. A 1994 report of the U.S. Government Accounting Office (GAO) on child care subsidies found "that among factors that encourage low-income mothers to seek and keep jobs - affordable child care is a decisive one. Thus, any effort to move more low-income mothers from welfare to work will need to take into account the importance of child care subsidies to the likelihood of success."

This finding supports previous studies. A 1992 study of California's GAIN program indicated that "the reliability and convenience of care were significant in predicting parents' success in GAIN." Conversely, a lack of adequate, affordable child care creates a major barrier to program and workforce participation by AFDC and non-AFDC parents. Child care problems kept 42 percent of

AFDC recipients in a 1991 Illinois study from working full-time and 39 percent of recipients from going to school. A 1987 GAO study found that 60 percent of respondents in work programs in 38 states reported that a lack of child care was a barrier to their participation in the labor force. One-third of poor women not in the labor force identified child care as a barrier to their participation in the workforce.

Unreliable and inadequate child care arrangements interfere with AFDC recipients' continued participation in training programs or ability to keep a job. The Illinois study found that 58 percent of single parents were late or missed work or school due to child care problems. A New York City study in 1991 found that almost one-quarter of garment industry workers, many of whom are low-income, lost four or more weeks of work due to child care problems.

All current welfare reform proposals require increased participation of AFDC recipients in work, a jobs program, or training and education. The proposals will result in a greater demand for child care and on a system that even now cannot ensure adequate and affordable, good care. Child care programs already are under enormous strain, and require significant new funds. Good, dependable, and safe child care must be available if AFDC parents are to increase their participation in education, training, and work activities.

CHILD CARE SHOULD TRULY BE MADE AVAILABLE TO AFDC AND LOW-INCOME WORKING FAMILIES

In the past, limited federal, state, and local child care funding streams have created a fragmented system that cannot support the self-sufficiency efforts of many AFDC and non-AFDC low-income families. Without continued guarantees and assurances for child care funding for AFDC recipients and those in the transitional program, states will be forced to meet their obligations to serve these populations at the expense of low-income, non-AFDC families. With limited funds available and a growing demand for services, states will be forced to spread limited dollars and possibly provide inadequate child care.

States have increasingly targeted limited child care assistance for welfare families at the expense of low-income working families. Sixteen states use the Child Care and Development Block Grant (CCDBG) for AFDC families because they did not have to provide a state match. In many states, limited state child care dollars that previously were targeted for working poor families have been increasingly used to help fund child care for families in JOBS and transitional child care programs. Even if the state match is eliminated, this will continue to be a problem if there is no assurance for federal funding for the increasing number of AFDC recipients who will need child care to participate in the required work and training programs.

The 1994 GAO report, *Child Care: Working Poor and Welfare Recipients Face Service Gaps*, stated that because many states continue to face fiscal constraints, "States may not be able to provide child care services to their low-income clients in ways that promote and support self-sufficiency." The report concluded that "the current system may also inadvertently create an incentive to go on welfare for those needing child care to become employed" and this was happening when child care subsidies were assured for all JOBS participants and those in the transitional child care program.

Families who exhaust their one year of transitional child care assistance (TCC), designed to continue support to families as they move from welfare to work, compete with working poor families for limited or non-existent child care subsidies and the number of families will grow under most welfare reform proposals. Limited state and federal resources for continued subsidies after the one year of TCC have created a dilemma for states and for families. Some states place the TCC families at the top of the priority list for access to subsidized child care from the At-Risk program or a state-funded child care program but cannot guarantee a subsidy. Some states report waits of up to one year or longer for these families. Recently, ten states (Arizona, Indiana, Maine, Massachusetts, Missouri, Montana, Nebraska, Ohio, Oregon, and Virginia) requested federal waivers to extend TCC eligibility beyond the current one-year limitation.

States will have little incentive and limited funding available to serve non-AFDC, low-income families as they develop their own welfare reform programs that require increase work participation and place greater demands for child care for AFDC families. This predicament undermines efforts to provide child care to prevent welfare dependency. In order to continue working or to enter the workforce, low-income parents need affordable and reliable child care. The 1990 National Child Care Survey indicated that families living in poverty spent approximately one-quarter of their income on child care expenses compared to six percent for non-poor families and the 1994 GAO study, *Child Care Subsidies Increase Likelihood That Low-Income Mothers Will Work*, indicated "that a full subsidy would result in a 15-percentage-point increase in the average probability of poor mothers working" and "for near-poor mothers...a full subsidy of child care costs would lead to a 14-percentage-point increase."

Without child care, many working parents are forced to give up their job and turn to AFDC. Of Massachusetts mothers who had left welfare to work but returned to welfare after one year, one-third gave child care problems as the reason, and in Illinois, it was 20 percent. A study of child welfare preventive services identified the loss of child care arrangements as a critical event for many families and that it contributes to the undermining of parents' ability to care for their children and to continue to work.

Without guaranteed assurance of continued federal financial support for subsidies for all AFDC recipients who need good, reliable, and safe child care and increased support for low-income, non-AFDC working parents, the competition for federal and state dollars among AFDC families in training or entering the workforce, families who have moved from welfare to work, and non-AFDC, low-income working families -- all who need child care subsidies as they move toward independence -- will continue.

THE CHILD AND ADULT CARE FOOD PROGRAM MUST BE CONTINUED

The Child and Adult Care Food Program (CACFP) must not be included in a block grant program that would eliminate the guarantee for low-income children enrolled in child care and Head Start programs to access nutritious meals that helps ensure that these children are well-fed, able to concentrate, and ready to learn. The Child and Adult Care Food Program provides nutritious meals to over 2 million children up to the age 12 enrolled in child care centers, family child care homes, before and after school programs, and Head Start programs. By providing free and low-cost food to child care providers, CACFP helps ensure that children are well-fed, able to concentrate, and ready to learn.

As more low-income parents have entered the workforce and their children are enrolled in child care or Head Start program participating in CACFP, they know their children will be guaranteed well-balanced meals and snacks. For many of these children, the child care program they attend is their primary source of food. Children may spend as much as 10-12 hours each day in care and receive most of their meals while there. According to Congress' Select Panel for the Promotion of Child Health, preschool children often receive 75-80 percent of their nutritional intake from their child care providers.

By reimbursing providers for part or all of program meal costs, CACFP makes a significant difference in the ability of child care centers and low-income family child care providers to provide wholesome and nutritious meals. USDA has reported in its evaluation of the program, that children in participating programs, ate more nutritious meals then those children enrolled in sites that did not participate.

Including the Child and Adult Care Food Program in either a nutrition or a child care block grant, would eliminate the guarantee of meals to low-income children in child care and Head Start settings. Under a block grant, it is possible that states would no longer offer a food program for children in child care or cutting back on the number of children and programs who can participate, thus failing to ensure that young children receive the nutritional benefits they need.

In order to support parents' abilities to provide for their families, and to ensure that children have quality child care, CWLA urges this Subcommittee to maintain the Child Care and Development Block Grant and the Child and Adult Care Food Program. A commitment to child safety, protection and care requires that all child care proposals be carefully reviewed for their effects on the nuturance of our children and the well-being of families.

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TO: **THE SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES:**

FROM: **Richard A. Gardner, M.D.**

RE: **HR3588 - Proposed Revision of the Child Abuse Prevention and Treatment Act (CAPTA) (Public Law 93-247 [referred to as "The Mondale Act"])**

It is my understanding that the Committee on Economic and Educational Opportunities will be considering either repeal or modification of CAPTA. Full repeal of CAPTA would be a terrible mistake: it would deprive *truly abused* children of the protection they sorely need, resulting in massive political upheaval as the mental health and legal communities, the public, and the media struggle with the fallout from this decision. Equally important, it would deprive protection of those who might be falsely accused of such abuses, already a media highlighted public concern. I recognize fully that financial considerations are an important factor in the Committee's decision. I believe that the implementation of the modifications described below--modifications I will be presenting in my forthcoming testimony before the Committee--will not only save the federal government significant money but also preserve the important functions of CAPTA:

> 1. The federal absolute immunity proviso must be significantly modified. Absolute immunity, like absolute power, corrupts and fosters irresponsible exploitation. In the U.S. immunity from prosecution has traditionally been available only to specific groups essential to the functioning of the legal system, e.g., judges and prosecutors. Total immunity encourages frivolous, fabricated, and even malicious accusations. Qualified immunity, such as that enjoyed by police officers, is a reasonable replacement. States that maintain the absolute immunity provision should not be entitled to federal funding. This change alone would reduce significantly the flood of false referrals being generated at this time, resulting in a formidable savings of federal monies.

However, simply modifying the immunity proviso is not enough. There must be potential consequences for a false accusation whether it be deliberately made, the result of negligence, the product of delusion, or alleged for any other reason. Promulgating a false abuse accusation should be considered a criminal act, ranging in severity from a misdemeanor to a felony, depending upon the decision of the court. Malice should not be the sole standard of culpability for this crime because proving malice is extremely difficult. Rather, reporters should be held to an objective, *reasonable person standard*, i.e., whether an objective, reasonable person, in the same situation, would consider abuse to have taken place. Each state must have in effect a state law providing for the prosecution of any person who makes a false accusation in accordance with the objective, *reasonable person standard*. A false accuser (whether it be an individual or a governmental agency) should be required to pay for all legal costs of an accused party who is proven innocent in a court of law. Persistent failure to prosecute false accusers should deprive the state of federal funding.

2. The mandated reporting clause must be dropped. It has resulted in the reporting of the most frivolous and absurd accusations by two-and- three-year-olds, vengeful former spouses, hysterical parents of nursery-school children, and severely disturbed people against their elderly parents. Highly skilled examiners, professionals who are extremely knowledgeable about sex abuse, examiners who know quite well that the accusation is false, are required by law to report the abuse to individuals who they often know to be be overzealous, inexperienced, and even incompetent. Yet they face criminal charges if they do not report these accusations. Mental health professionals who are licensed by the state to practice should be given the discretion to report or not, depending upon their conclusions. States that require mandated reporting should not be entitled to federal funding for child abuse programs. This change would also reduce significantly the flood of false referrals being generated at this time, again resulting in a formidable savings of federal monies.

3. The federal law should require investigators and evaluators (both in the law enforcement and mental health realms) at all levels to routinely notify and invite for voluntary interview(s) every individual accused of child abuse or neglect. (These suspects, of course, must first be informed of their legal rights.) The failure to routinely extend such invitations should deprive the agency of funding.

Each and every investigator and/or evaluator licensed to conduct such evaluations should be required to interview the accuser, the alleged child victim, and extend an invitation to the accused to be interviewed as well. In some cases the accused will accept the invitation and in others he or she may not. Courts of law will only consider admissible evaluations conducted by people who have extended invitations to all three parties.

4. All investigatory and evaluative interviews should be videotaped. States that do not require videotaping of such interviews should be deprived of federal funding. Nonvideotaped evaluations should not be admitted into a court of law, nor should testimony based on nonvideotaped investigations or evaluations.

5. Interviews in which suggestive materials are used, specifically anatomically detailed dolls, body charts, and/or other materials that indicate genital and/or sexual organs should not be admissible in a court of law. States that admit such materials into courtroom testimony should be deprived of federal funding.

6. States in which individuals suspected of child abuse are deprived of constitutional due-process protections should not be provided federal funding.

7. The federal laws now provide funding for child abuse research, education, prevention, identification, prosecution, and treatment. Such educational programs must be periodically updated to include new development in all these areas. All mental health and legal professionals involved in child abuse should be required to periodically attend these course updates. Specific information should be provided in these courses regarding criteria for differentiating between true and false accusations. Such funding should also be provided for programs designed to assist those who are falsely accused, as well as children who have been victimized by being used as vehicles for a false accusation. Such programs could be incorporated into existing child-abuse and child-neglect programs.

8. CAPTA provides federal funding for the child's legal representative (the guardian ad litem) the accuser's legal representative (the prosecutor) but not for the defendant's legal representative (the public defender). As a result, overburdened public defenders' offices are not capable of providing equal representation for defendants, especially those accused of sexual abuse. Prosecutors can generally afford special units devoted to sex abuse; public defenders rarely enjoy this luxury. CAPTA has the power to correct this inequity.

9. In order to receive federal funding each state must establish an office and procedures to consider applications for postconviction judicial review from anyone convicted of a child abuse crime. When considering such applications, special attention should be given to: 1) the possibility of violation of the defendant's due-process protections, 2) new scientific developments--especially in such areas as

suggestibility, memory, and medical findings, and 3) whether the accuser and/or the alleged child victim has recanted the allegation. The reviewing office should be required to issue a report detailing specifically its reasons for its conclusions regarding the justification for postconviction judicial review. The existence of this office would not preclude a defendant's enjoying traditional postconviction rights and procedures. Federal funding would supplement state funding specifically designated for the implementation of this proposal, especially funding for defendants to engage the services of counsel.

As is well known, statistics can easily be manipulated, especially in the realms of child sex abuse. A typical "statistic" is one in which an organization states that X percent of its evaluations prove "unfounded." The attempt here is to prove that the agency is being unbiased and it is equally receptive to an "unfounded" as well as a "founded" conclusion. The problem here is that many of the "founded" cases involve innocent individuals whose child accusers have been subjected to the aforementioned coercive interview techniques. From the point of view of the innocent person who has been found guilty because of such techniques it does not matter whether the founded group represents even one percent of all the accused. From that person's point of view he (she) has been falsely accused and even imprisoned. Accordingly, the percentages of those investigations and evaluations that are founded vs. unfounded is totally unrelated to the problems we are dealing with here.

As mentioned, full repeal of CAPTA would be a terrible mistake. First, purely from the political point of view, it would suggest to the public that the Committee has no sympathy for sexually abused children. The overzealous and naive people who have contributed so significantly to the problem with which we are dealing here have waved this banner continually. The facts are that there are indeed hundreds of thousands--and possibly millions--of children who are being abused and neglected and we are morally obligated to provide them with protection, etc. However, there are also thousands (we will never know how many thousands) of individuals who have been falsely accused of sexual abuse. CAPTA can protect these people as well.

The implementation of these changes into CAPTA will result in a moratorium on federal fundings at this point. Only when the states have demonstrated that they have complied with these provisions will federal funding again be considered. The implementation of these proposals should ensure protection for truly abused children as well as those alleged perpetrators who might be falsely accused. It would also save the federal government money, both because there would be fewer false accusations as well as a moratorium on federal funding pending the implementation of these proposals--especially the review of cases of those convicted of child abuse. The complete repeal of

CAPTA will dump the whole CAPTA problem in the laps of the 50 different states. If this happens, the likelihood of quality reform would be small and the chances of perpetuation of a system gone amuck almost inevitable--at least during the next few years.

Sincerely,

Richard A. Gardner, M.D.
Clinical Professor of Child
Psychiatry
Columbia University
College of Physicians and Surgeons

RAG/dll

Seth Farber, Ph.D.
172 W. 79TH ST., APT. 2 E
NEW YORK, NEW YORK
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(212) 799-9056

February 9, 1995

Hans Meeder
Ford Home Office Building, Room 230
Washington, DC 20515

Attention: Subcommittee on Early Childhood, Youths and Families

Dear Hans Meeder:

I am submitting my article in the October 12, 1993 issue of *National Review* to be considered as testimony for the January 21, 1995 hearing on Child Protective Services. I would like to supplement the article with a couple of brief points herein.

I am a psychologist, a writer and an editor of *The Journal of Mind and Behavior*. I am the Co-Director with Dr. Monty Weinstein of the Family Therapy Institute of New York City, the author of *Madness, Heresy and the Rumor of Angels* (Open Court, 1993), and a public speaker who has appeared on numerous shows including William F. Buckley's "Firing Line" and Oprah Winfrey.

A point that was not brought out explicitly enough in my *National Review* article (because of lack of space), is the role of psychologists in providing a facade of legitimacy to judicial decisions to remove children from their parents and place them in foster care when no standard of evidence whatsoever has been met. This occurs because an evaluation by a psychologist stating that the accused parent suffers from a mental disorder is typically taken as proof by the family court judge that the parent lacks the competence or devotion to be protective and nurturing to his/her children.

Although it is difficult to acknowledge, immense harm to children and to parents will result from our failure to face the fact: there is no correlation between a psychologist's diagnosis of a mental disorder and a person's ability to act as a loving and responsible parent. I say this both on the basis of my own research, and on the basis of my personal experience as a psychologist who has been consulted by hundreds of parents who were denied the right to have custody or even visitation with their children.

Psychologists have a strong tendency to deem virtually everyone who has come under suspicion by the child welfare system as mentally disordered. After reading hundreds of psychologists' evaluations, I can state that no one could ever tell from their assessments that there are many human beings who possess a sense of humor, a generosity of spirit, imagination, a basic sense of justice and an ability and willingness to responsibly protect and nurture their children. If the population at large had to be evaluated by mental health experts, virtually no parents would be allowed custody of their children.

For this reason, I want to urge the members of this committee to overcome their natural disinclination to question authority, and to do whatever they can to curtail the power of psychologists in family court. If circumstantial evidence is admitted in the courtroom, it would be of more value if it were from associates, friends or family of the parents or children rather than from professionals. This is because lay people usually do not have the kinds of biases that may lead them to interpret virtually any kind of behavior as a symptom of a mental illness. As long as "expert" testimony is accepted as a substitute for any evidence of parent misconduct, family courts will provide no protection of due process to children and parents, and these judicial hearings will serve ceremonial functions similar to that of witch trials.

If further information is required, please feel free to contact me.

Sincerely,

Seth Farber

Seth Farber, Ph.D.

to allow banks to reduce documentation on an as yet unspecified amount of loans, the ceiling on each loan also to follow.

This may create a small window for some small-business lending. But the initiative does not—and, as an administrative rather than a legislative approach, *cannot*—remove the accumulated regulation that has led banks to avoid character lending. Bank examiners will continue to follow the clear intent of the FDIC Improvement Act, which at bottom prohibits such lending. Though top regulators can urge discretion on bank examiners, "It's easier to unleash the dogs than to call them off," in the words of Kenneth Guenther. Diane Casey views it as "an excellent first step," since it urges bank examiners to be more reasonable, but adds that it will not generate a surge in lending to small businesses: that would require new legislation. Forget about that $16-billion stimulus. ◻

The Child Welfare System

THE REAL ABUSE

What are the child-welfare agencies doing to stop child abuse? The reverse.

SETH FARBER

MARY JACKSON is a 40-year-old black woman who has worked for 15 years as a school crossing guard. She has been the primary caretaker of her three grandchildren, aged five, eight, and ten, because her daughter—the children's mother—has spent much of the time on drugs.

When one of the children was taken to the hospital for pneumonia, Mrs. Jackson was charged by the Child Welfare Administration with "medical neglect," and all three children were taken away. Most cases involving allegations of neglect end there—with the children in the custody of the CWA. But Mrs. Jackson fought back. She was not guilty of the charge, and she had evidence to prove it.

Indeed, after her first appearance in court, an extremely unusual thing happened: the court-appointed psychologist recommended that her grandchildren be returned to her. And he publicly disagreed with the child-welfare bureaucracy. He wrote, "In contrast to CWA reports that Ms. Jackson has not provided medical attention to these children, she pulled from her purse detailed copies of medical reports of examinations and vaccinations." These records, dating back to the time of each child's birth, documented every medical visit made and every immunization shot received.

But the child-welfare bureaucracy doesn't give up that easily. They offered Mrs. Jackson a deal: if she pleaded guilty to neglect they would return her grandchildren to her in six months. Her court-appointed lawyer advised her to do so, and she did. (This sort of plea-bargaining is quite common in the child-welfare bureaucracy.)

When the six months were nearly up, the CWA went back on its word and insisted that Mrs. Jackson go for another "psychological evaluation." This time she was examined by a black psychiatrist. Perhaps because he was black, Mrs. Jackson felt that she could confide in him. She failed to realise that he was a child-welfare bureaucrat above all else. She described one of the figures in the Rorschach inkblot test (these tests have no scientific validity) as "a hole trying to trap somebody . . . like they trapped me and I fell right into that hole." She also said, later in the interview, "People lead you on, you do certain things and they use it against you." Far from indicating some abnormal mental state, these were perfectly accurate descriptions of what had happened to Mrs. Jackson. But the psychiatrist inferred from her responses that she was suffering from a "paranoid personality disorder." He also stated in his report that she was guilty of medical neglect, although he had access to the psychologist's report that had already refuted this charge.

The psychiatrist wrote, "She tends to be more obvious or intense in expressing feelings than most adults, and there's a capacity for very maladaptive behavior when aroused. Mrs. Jackson is currently depressed, in a rage, feels 'all alone,' feels 'everything has been taken away' from her." This is a standard tactic among mental-health bureaucrats: to construe a mother's distress as a "symptom" of a "personality disorder," rather than as a natural response to the abduction of her children.

The psychiatrist had two recommendations: first, that "Mrs. Jackson not be given custody of her grandchildren due to her disturbed thinking and flawed judgment"; second, that she be provided with therapy "to help her cope and adjust to the loss of her grandchildren." (Presumably, this was a slip of the pen. Usually the bureaucrat is not candid enough to admit that what the client is suffering from is the removal of her children.)

When I entered the case, *pro bono*, I wrote a three-page letter

"When you think about it, peace has no meaning in a peaceful world."

Dr. Farber is a psychologist and the author of Madness, Heresy, and the Rumor of Angels, due out later this spring from Open Court Press.

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in foster care (the one with sickle-cell anemia) has run away four times and returned to her mother. Each time the court sent the police to separate them again.

Will and Norma Lynne Griever are a white middle-class couple in their late thirties with three children. The children were taken away from them in March of 1990 and Mrs. Griever was said to be a dangerous mother. What had she done to warrant this? She had made the mistake of going to a mental-health clinic and asking for family therapy after her 12-year-old son, Jeremy, had been sexually abused by a neighbor. Jeremy had also been sexually abused one time several years previously by a stranger.

Instead of family therapy, Mrs. Griever was given a "psychological evaluation." Her distress was said to be a symptom of a "borderline personality disorder," and the report concluded, "One, Lynne most definitely needs psychological and possible psychiatric intervention. While she's saying that she wants treatment now I believe the prognosis is only fair if she can work in a therapeutic relationship for a long enough period of time to address some of the underlying depression and disordered thoughts. However, her ideas and values are fairly rigid and will not be easy to alter.

"It seems clear that much outside support will be necessary for an extended period of time if Lynne is to continue caring for her 13-year-old son. It appears she has not been able to protect him from being molested on several [sic] occasions in the past and may, indeed, place the child in danger because of her flawed judgment at times."

This report became the justification for the removal of the Grievers' children by the family-court judge. Lynne and her husband had the money to hire a competent attorney, although they depleted most of their savings in the process. She consulted me as a psychologist. After a lengthy court battle and an investment of thousands of dollars the Grievers' children were returned to them.

The Way the System Works

THE ABOVE are not isolated instances; they are the way the system normally works. Under the guise of helping groups in need—

How Many Battered Children?

RELIABLE statistics about the child-welfare bureaucracy are scarce, but those that exist confirm Dr. Farber's contention that the system is at least as likely to harass innocent parents and unnecessarily place children in a damaging foster-care system as it is to protect abused children.

According to a Department of Health and Human Services study of 44 states (each state handles its own child-welfare system and data), in 1990 2.7 million children were reported abused and neglected. But two-thirds of these reports (which include anonymous phone calls to "hot lines") were not substantiated.

Unfortunately, that would still seem to leave 893,856 bruised, battered, and sexually abused children. But, according to a study by the American Humane Association, cases involving sexual or major physical abuse in 1986 came to 183,000—about 20 per cent of the total substantiated cases. (Another 84,000 cases were unspecified physical abuse, perhaps including some cases of major physical abuse.) The federal National Incidence Study arrived at roughly similar results in 1986, determining there were 161,000 cases of serious maltreatment that year.

Richard Wexler, author of *Wounded Innocents*, estimates that out of every 100 reports of alleged child abuse: "at least 58 are false; 21 are mostly poverty cases (deprivation of necessities); 6 are sexual abuse; 4 are minor physical abuse; 4 are unspecified physical abuse; 3 are emotional maltreatment; 3 are 'other maltreatment'; 1 is major physical abuse."

While vague categories like "deprivation of necessities" may save a child from virtual abandonment by a crack mother, they also allow the hand of the child-welfare agencies to fall heavily on low-income households. The poor are more likely to have to leave a small child at home alone while running an errand, or to live in a home that social workers would consider unsanitary. Both can be classified as neglect. According to the Illinois Department of Children and Family Services, lack of supervision was the alleged maltreatment in more than 25 per cent of all cases reported in the state—the most frequent charge. A study by the Association for the Children of New Jersey found that 25 per cent of Newark's foster children were taken from parents solely because of the parents' homelessness.

Once a child is taken from his home and placed into foster care his lot may not improve. A study in Baltimore by Trudy Festinger, head of the Department of Research at NYU's School of Social Work, found that 28 per cent of the children in foster care had been abused while in the system. And the ACLU's Children's Project estimates that a child in the care of the state is ten times more likely to be abused than one in the care of his parents.

Although caseworkers are required to make "reasonable efforts" to keep a family together, a 1989 study by the University of Southern Maine found that in 44 per cent of the cases in which a child was taken from his home no reasonable effort had been made to keep him there. USM's 1992 study of Kansas found that reasonable efforts had not been made in 54.8 per cent of cases. In 86.6 per cent of cases where a child was put in foster care, Kansas failed to make the required reasonable effort to reunite him with his parents.

The Federal Government also provides a huge counterproductive financial incentive. One federal program that helps states cover the cost of placing a child in foster care and maintaining him there grew from about $300 million in 1981 to nearly $2.7 billion in 1991. But there is no countervailing federal program to help keep a child in his home.

—RICHARD LOWRY &
RICHARD SAMUELSON

Messrs. Lowry and Samuelson are members of NR's editorial staff.

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poor people, children—the welfare-state bureaucracy seeks above all to perpetuate its own existence. It is a monstrous social parasite whose overriding objective—no matter how well intentioned its individual staff members—is to capture vulnerable individuals, transform them into its clients, foist its "services" upon them, undermine their autonomy, and ultimately incorporate them into its own parasitic body. It is a dictatorial state within the state that gives the appearance of benevolently serving its clients' needs, even when it is totally destroying their lives.

Paternalistic ideologies have molded the popular consciousness for so long that citizens do not notice that the bureaucracy's overt ideological operations enable it to covertly subvert the rule of law, and to substitute its own arbitrary fiat for the protections of constitutional democracy.

While all too many children, particularly in poverty-stricken and drug-infested sectors of the inner city, do need some sort of protection, the system is by and large not designed to help them. (There are exceptions, such as a very small "family preservation" program in New York City.) Richard Wexler, among others, has documented the destructive impact upon children of child-welfare agencies across the United States. (see box, page 46.) The majority of removals are for allegations of neglect, or "emotional maltreatment." Neglect usually means that the child comes from a poor family and, like his parents, suffers from the hardships of poverty. As Wexler observes, "Children are taken away because the family does not have a place to live. Children are taken away because the food stamps have run out. Children are taken away because the family can't pay for the heat."

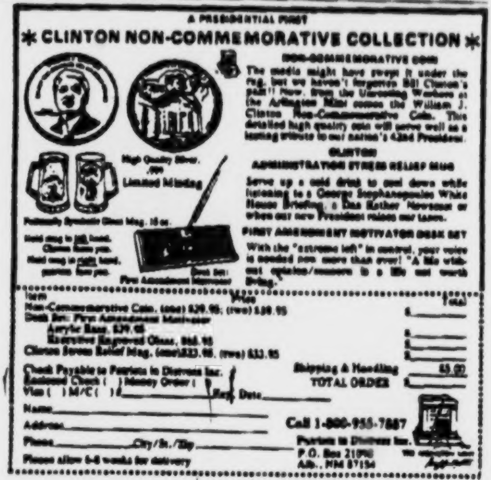
Corroboration comes from Dr. Lawrence Aber, professor of psychology at Columbia University, who stated conservatively that "more than half" the cases agencies label as neglect are really poverty cases. Trevor Grant, former Director of Social Service of CWA, who resigned "in disgust" in 1991 after six years, believes the figure is closer to 85 per cent. "For the most trivial reasons families are destroyed. If the furniture is broken down or the house is messy, CWA workers will remove the child. When in doubt, the safest practice for the workers is to remove the children and then to file neglect charges that never have to be proved in court."

As for emotional maltreatment, in practice it means anything a child-welfare worker wants it to mean. In one survey child-welfare workers described some of the "emotional maltreatment" that they believed constituted grounds for removing a child from his parents' custody. The list included singling out one child for more punishment and chores and fewer rewards, forcing the child to wear clothing "inappropriate" for his or her age or sex, not providing "security or stability" for the child, barring the child from extracurricular activities "without sufficient reason or alternative," and using "excessive" threats or psychological punishment.

In the view of Dr. Monty Weinstein, virtually all families charged with "emotional maltreatment" ought to retain custody of their children. /He stated, "In some cases counseling is indicated, but in most cases it's merely an issue of a caseworker imposing their own definition of good parenting on parents who are fully capable of taking care of their children."

There are approximately 400,000 children in the foster-care system nationwide. Only a small minority of these children have been separated from parents who are dangerous to them. The overwhelming majority have been separated from loving and responsible parents. One does not need to be a child psychologist to realise the devastating effect of removing a child from parents with whom he or she is deeply bonded. The main effect of the child-welfare bureaucracy's interventions is to abrogate the right of children to have parents.

Even if the child-welfare agencies were able to offer an earthly paradise to the children it took over, many of us would still have qualms about a government agency arrogating to itself the right to decide who is a fit parent. But life in the foster-care system is scarcely paradise. New York State Assemblyman Cecile Singer, who chairs the Assembly Standing Committee on Children and Families, calls it "a lifetime system of rootless wandering." Dr. Mark Ginsberg, president of the American Association of Marriage and Family Therapists, has said, "The abuse of children by and through the child-welfare system is one of the



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major scandals of American life today."

Wexler demonstrates in his book that the overwhelming majority of these children are subjected to multiple placements, and most never find a stable home. One young veteran of foster care told Wexler, "The people that I've seen, the kids that have emerged [from foster care] are . . . dead. Their hearts are functioning, the old heart's pumping the blood around. But they're basically dead inside. It's been killed. Either they had to kill it to survive physically, or somebody else killed it in them. Whatever it is that makes people human."

Wexler estimates that approximately half of the homeless in New York City came from the foster-care system. Most of them had parents who loved them. An 11-year-old boy, who was fortunate enough to be returned to his mother, told a congressional committee, "They took almost five years away from my life. That's almost one-half of my whole life that I spent just waiting to come back to my real family. It was terrible to be put in lots of different homes with lots of strangers, knowing they wouldn't let me be with my mother. I wanted to be with my mother and my brothers and sister. One time I ran away from a foster home and back to my mom, but the social worker wouldn't let me stay. . . . The only help I wanted from the social workers was to go back to my mom, but they didn't help us with that. The foster-care people are trying to tell my mother that she's not—that she's not good enough right now? She's good enough for me any time."

The system doesn't even have a strong record of saving children from serious physical abuse. Its poor performance is due to two factors. *First*, the rate of abuse in the foster-care system is much greater than the national average; foster parents do not have to go through a screening process, and many are in it purely for financial gain. *Second*, many children who have been physically abused are returned by the child-welfare bureaucracy to the abuser, if he or she "cooperates" and says the right things in therapy. (It is estimated that 35 to 55 per cent of all child-abuse deaths involve children previously known to child-protective services.)

In addition to the bureaucratic imperative underlying the present system, there are economic factors. The Federal Government provides massive reimbursement for foster-care programs nationwide, but little money is available for preventive services. In New York City, Wexler noted, the city contracts for preventive services with some of the same agencies that live off foster care. The result is that virtually nothing is done to provide families with the kinds of services that they want, such as rent subsidies, day care, etc., though money is always available for the one service that does not necessarily help to keep the family together, i.e., "therapy." Wexler notes, "These agencies prefer placing children in foster care—and keeping them there—because they are paid for foster care on a per diem basis. As soon as they do what they're supposed to do—reunite families—their money stops" (*New York Daily News*, July 17, 1991).

Reverse, March!

WHAT, THEN, can be done to protect the welfare of children? In the case of the inner cities, which account for the overwhelming majority of children placed in foster care, I think the answer is to be found in Alan Keyes's proposal—made in these pages last year, after the Los Angeles riot—to devolve the functions currently usurped by federal, state, and local bureaucracies onto decision-making councils elected by the residents of each neighborhood.

Keyes wrote, "The federal and state governments should work with the councils to transfer the administration of social-welfare programs into the hands of persons chosen by and answering to the councils." The child-welfare system and the family-court system should be abolished. Instead, the neighborhood committees should investigate charges of neglect, and if the "neglect" is merely due to poverty the councils should allocate financial resources derived from the federal and state governments to help alleviate the problems. If the parents are truly negligent, the council should work with foster-care agencies to find temporary placements for the children and/or with family therapists to provide counseling for the family, with the goal of eventual reunification.

In the case of physical and sexual abuse, there should be criminal prosecution of the accused. Under the guise of providing "therapy," social workers and mental-health personnel have prevented criminals from receiving just punishment for their crimes, at the same time as they remove children from good and loving parents. Child-welfare workers have repeatedly returned children to parents who have seriously abused them, leading to many needless deaths. This would not happen if abusers were regarded as criminals rather than as "mentally ill" individuals who can be cured by several months of talking (i.e., "therapy"). The neighborhood councils should help find appropriate placements for the children of abusers.

The objective of the judicial process should not be to determine whether an individual suffers from a "mental disorder," but whether he or she has actually been guilty of an act of physical or sexual abuse. This would allow for the restoration of the constitutional right to be considered innocent until proven guilty. Therapists who have worked with families should be allowed to testify as character witnesses, but not as expert witnesses. Professional "expertise" is a poor substitute for common sense and common decency.

The above measures would save the taxpayers millions of dollars and significantly improve the lives of children and poor people—as well as the equally aggrieved, but less numerous, middle-class victims of the child-welfare system. There is one major problem: these measures would put thousands, if not millions, of social workers, mental-health professionals, child caseworkers, administrators, and family-court personnel out of work. As Robert Woodson astutely observed ("Saving the Poor from Their Saviors," National Center for Neighborhood Enterprises, Washington, D.C.): "What we have built is a Poverty Pentagon, the principal beneficiaries of which are not the poor but those who make their livings from the poor." The dismantling of the dependency-producing welfare state is a problem comparable in nature and in magnitude to the task of demilitarization presented by the end of the Cold War.

I can think of no easy way of making this transition. It would require a massive economic and social reorganization, as well as a political battle against an entrenched bureaucracy.

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But it is evident that we will suffer enormous costs as a nation if the magnitude of the problem prevents us from confronting it. A society that destroys its children is not a morally or spiritually viable entity. ☐

Mel Bradford, R I P

IN ABRAHAM'S BOSOM

A lifelong dispute about Abraham Lincoln has been remanded to a higher court.

HARRY V. JAFFA

NO ONE—outside the immediate circle of his family and close friends—will miss Mel Bradford more than I. His opinions on Lincoln, the Civil War, the Declaration of Independence, equality, and slavery were so diametrically opposite to mine that they were virtually mirror images of each other. We were, more than any of our contemporaries, I think, so convinced that the conflict that centered on the figure of Abraham Lincoln was the central conflict in American, perhaps even in world, history that we came to constitute a fellowship of our own.

In his loyalty to the Old South—to the South of which he knew from what he regarded as the only ultimately reliable authority, namely "our fathers"—Mel was perfectly intransigent. He believed in tradition in the absolute sense in which the fundamental ordering of society, and above all its convictions on the ultimately important things—such as God and the universe—were transmitted by the family. Of course, this meant not any families, but the old families, such as constituted the senatorial class in ancient republican Rome, the ones who ruled by divine right because their family gods were the gods of the city. Once in a long private conversation, I pointed out to him that the only regime that was purely patriarchal—more so even than that of the Roman republic—was that of ancient Israel. This regime alone, in the form of Orthodox Judaism, had survived into the modern world. "You ought to be a Jew, Mel," I said.

"Maybe you're right, Harry, maybe you're right," he replied, in his long squeaky Texas drawl.

Of course, Mel couldn't become a Jew, because it was not his inherited religion. That, however, illustrated the difficulty with "pure" traditionalism in a Judaeo-Christian framework. When Jesus asked: "Who is my mother, and who are my brothers?" (Matthew 12:48) he transformed the family of pure tradition into one constituted, not by blood, but by faith. Curiously, this is exactly what Abraham Lincoln did within the American experience.

> We have besides these men—descended by blood from our ancestors . . . —perhaps half our people who are not descended [from them] . . . German, Irish, French, and Scandinavian . . . If they look back through this history to trace their connection with those days by blood, they find they have none . . . but when they look through that old Declaration of Independence they find that those old men say that "We hold these truths to be self-evident, that all men are created equal," and then they feel that that moral sentiment taught in that day evidences their relation to those men, that it is the father of all moral principle in them, and that they have a right to claim it as though they were blood of the blood and flesh of the flesh of the men who wrote that declaration, and so they are.

Just as Jesus bridged the gap between the God of Israel and Mel Bradford's ancestors, who were not descended from the Fathers who stood at the foot of Mt. Sinai, so Lincoln bridged the gap between the Revolutionary Fathers and my ancestors. When Lincoln began the Gettysburg Address by invoking "our fathers who brought forth this nation" he confirmed our community as a sacramental union of "one nation, under God."

Our Separate Fathers

MEL BRADFORD would never accept this view of Lincoln, or of the Declaration as the source of our authentic tradition. Yet in a curious way we shared a faith in "our fathers"—both Biblical and American—as the source of authority and tradition. Because of that shared faith, we agreed very much in our post-bellum convictions. We shared a hatred of Communism abroad and socialism at home. We both loathed "race-based remedies." We felt much the same way about the liberal statism that would replace the family and its extension in neighborhood communities, neighborhood schools, neighborhood churches and synagogues, and voluntary charitable organizations. In fact, we shared a conviction concerning states' rights, even though Mel, following John C. Calhoun, could not see the connection that I (and Abraham Lincoln) saw between states' and natural rights.

Above all, we shared a hatred for that acid of modernity, moral relativism, which lay at the heart of the welfare state, and which was dissolving the very basis of our civilisation. In 1977 I presented a paper on *Measure for Measure* at a Shakespeare conference at the University of Dallas. It was entitled "Chastity as a Political Principle," and in it I set out what I believed to be Shakespeare's finding of moral laxity in private life as the basis for the disintegration of public morality. Shakespeare's play is a drama of the restoration of the family of republican Rome—as is symbolised in part by the silent presence of old Romans at the end. Mel was most enthusiastic at this presentation, both from a literary and a philosophic perspective, he felt it represented complete agreement as to what we understood conservatism to be.

Joining Lincoln's Party

IT WAS accordingly not surprising that Mel called on me when he decided in 1981 to become a candidate for the chairmanship for the National Endowment of the Humanities.

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Public Policy
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COMMENTS TO THE SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES OF THE COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE IMPORTANCE OF PROVIDING QUALITY, AFFORDABLE CHILD CARE TO LOW-INCOME FAMILIES

PREPARED BY

CJ VANPELT
DIRECTOR
PUBLIC POLICY DEPARTMENT
YMCA OF THE USA

YMCA Mission:
To put Christian principles into practice through programs that build healthy body, mind, and spirit for all

Thank you for the opportunity to comment on the need of our nation's families for quality, affordable child care. As the nation's largest provider of school-age care, the YMCA has particular experience and understanding of the challenges and successes families face in providing quality care for their school-age children. Each year the YMCA provides safe, affordable care for some 250,000 school-age children in more than 7,000 sites across the country. For the YMCA, offering safe, affordable, high-quality child care is key to nurturing the healthy development of children and strengthening families.

Since its enactment in 1990, the Child Care and Development Block Grant (CCDBG) has been a valuable resource for low-income, working poor families in their efforts to remain independent of welfare. Without the Block Grant and the subsidy it provides, many of these families would have to go on welfare.

Congress is moving swiftly towards restructuring current federal child care programs. From the provider perspective, the YMCA is eager to work constructively with you to ensure that the goals of quality, affordable child care are met. In order for our nation to provide quality child care for America's low-income, working poor families, we must build on proven programs, while exploring new ways to assist states in improving child care quality and delivery.

The success of the Child Care and Development Block Grant validates its usefulness as the foundation from which to build a more effective child care delivery system. We believe that the Block Grant has been such a success because it incorporated the following principles:

> **Federal Leadership**. The federal government should provide strong leadership in addressing the rapidly growing need for affordable, quality child care. A great step in this direction was witnessed in 1990 when, with bipartisan support, Congress enacted, and President Bush signed into law, the Child Care and Development Block Grant. Enactment of the Block Grant sent a strong and clear signal that the child care needs of America's low-income, working poor families are important.
>
> **Safe, Quality Child Care**. Federal policy should support efforts to strengthen the child care delivery system, including training for child care providers, resource and referral programs, and grants for building and expanding child care programs. With the Block Grant, states must use up to 25% of their allotted funds to improve the quality of child care and provide for early childhood and school-age care. Such a requirement signals the importance of providing safe, quality child care to all children, regardless of their parents ability to pay. Many states have used their quality money to improve training for child care providers, buy much-needed supplies and equipment, and make minor improvements in their facilities.

Assisting Low-Income Families. Limited federal dollars for child care should be targeted primarily to low-income families. According to a recent report from the General Accounting Office (GAO), **Child Care: Child Care Subsidies Increase Likelihood That Low-Income Mothers Will Work**, providing a full child care subsidy to low-income parents raises their chances of participation in the workforce from 29 to 44 percent. As Congress debates various child care consolidation proposals, it is important to understand the impact of subsidies on the ability of families to remain self-sufficient. Seventy-five percent of the Block Grant's allotment to individual states must be used to improve child care services to low-income families.

State Flexibility. Federal child care policy should allow states and communities the flexibility of determining their own child care needs and, thus, developing their own strategies to address those needs. While the federal government does have a role in ensuring that child care providers comply with the most basic in health and safety standards, the federal government should not be in the business of micromanaging how child care is delivered on the state and local levels. Under the Block Grant, each state decides how to best meet their child care needs.

Parental Choice. Federal policy should maximize the child care choices available to families by supporting the diversity of the existing child care delivery system. No provider should be given an exclusive role in providing services to any age group of children. States should be given the flexibility to use federal child care funds to assist families using for-profit, nonprofit, church, school and community-based providers, and family day care homes. To this end, families should be given the option of either enrolling their children with a child care provider that has a grant or contract with the state to provide care, or receiving a child care voucher. The Block Grant promotes parental choice by supporting a myriad of providers through contracts and vouchers.

State Initiatives. A federal child care program should encourage, not discourage, states in establishing child care initiatives of their own. In fact, states should be encouraged to coordinate their child care services with those supported by federal funds. Under the Grant, collaboration and coordination of child care services between various federal funding streams, state and local initiatives are encouraged.

The foundation upon which the Child Care and Development Block Grant is built is a good one, but it can be improved. There are four specific issues with which the YMCA has particular concern: state hearings on child care, recognition of school-age child care, serving special-needs children, and the Block Grant's current distribution process allocation.

State Hearings. As the Block Grant is currently written, states are required to sponsor at least one hearing in the state to give the public an opportunity to comment on how the state intends to spend Block Grant funds. Too often, though, such hearings are not well publicized and do not give affected providers an adequate opportunity to participate. If a state is to make an informed decision on how to best meet the child care needs of families, it should make every effort to seek input from those individuals and organizations that actually deliver services: the child care providers. As a major provider of child care, we encourage Congress to require states to provide, at the very least, all licensed child care providers with a thirty-day advance notice of a state's hearing. This will improve provider participation and go a long way towards strengthening a state's plan.

The Recognition of School-Age Child Care. Too often, on the national, state and local levels, school-age child care is not seen as a crucial component to the successful development of our children. Concern over the future of school-age care is heightened when one considers that the only federal funding stream specifically targeting school-age child care needs has been proposed for elimination-- the Dependent Care Block Grant. Providing children with safe, structured, supportive environments during the non-school hours is paramount to their continued successful development. Congress should ensure that adequate funding is available for school-age child care programs.

Working with Special-Needs Children. Working with special-needs children presents providers with both challenge and opportunity. Serving special-needs children often requires additional staff training and lower teacher-child ratios. Because of such needs, it is more expensive to serve special-needs children. The Block Grant does not provide for additional funds beyond normal reimbursement to serve special needs children. Congress should provide additional subsidy assistance to those providers serving special-needs children.

Child Care and Development Block Grant Disbursement Cycle. Under the Block Grant, child care providers are reimbursed for the services they provide to low-income families. The Block Grant's disbursement cycle places undue financial burden on many providers. For example, if a provider is experiencing financial difficulties and is not able to provide the necessary funds to cover the cost of child care for a particular family, then the provider has two options: 1) borrow the money from a financial institution, subjecting themselves to interest charges; or 2) deny child care services to the family. Congress should change the disbursement cycle of the Block Grant so that it is forward-funded and does not jeopardize child care for low-income families.

I would like to conclude my comments by sharing with you the following letter I recently received from the Saint Paul, Minnesota, YMCA. As you will see, the Block Grant is meeting tremendous needs on the community level.

> Just two years ago, Susan L. was raising two children alone. A single-parent, she could barely make ends meet. But today, thanks to the Child Care and Development Block Grant, she has a full-time job and no longer needs this assistance. Grant monies subsidized her child care costs so she could go back to school for retraining at the Minnesota School of Business, and now she is fully employed.
>
> We have to give thanks to the Child Care and Development Block Grant for this success story. In Minnesota, this grant provides financial assistance to families for child care through the state sliding fee program. We, at the YMCA, see these success stories everyday as the nation's largest provider of school-age child care.
>
> This is just one of many stories we could tell you about how beneficial these monies are to low-income people in Minnesota. The sliding fee program helps them afford child care so they can go back to school or work, be productive members of society and positive role models for their children. This money helps keep people off of welfare and on the tax roles.
>
> This letter is to support maintaining the Child Care and Development Block Grant at current funding levels when it is reauthorized this year. In the State of Minnesota, 75% of the money goes directly to families to pay for child care. The need is great -- **currently there are 7,000 families on the waiting list to receive these funds**. Let's keep helping families afford good child care.

Safe, dependable child care helps parents work to help their families succeed. It allows them the security of knowing that their children are being well cared for in safe, nurturing environments. The YMCA is always interested in exploring ways to enhance the delivery of child care services. In this regard, the YMCA is anxious to work with members of the Early Childhood, Youth and Families Subcommittee and the Congress to improve child care delivery for America's low-income families. I commend you for taking the time to address these important issues.

Submitted by: Dr. Prema Mathai-Davis
National Executive Director
YWCA of the U.S.A.

My name is Dr. Prema Mathai-Davis and I am the National Executive Director of the YWCA of the U.S.A., a national women's organization with 374 affiliates serving one million women and their families. I appreciate the opportunity to provide this written testimony on the subject of child care and the importance it plays in the lives of women. I know many of you have visited YWCAs in your Congressional Districts and are aware of the fine work being done throughout the United States to help women become independent of public support. Congressman Castle visited the YWCA of Castle County Homelife Management Center, a transitional housing program offering residential life skills and case management and saw first hand this program which led many mothers to learn skills to enable them to become independent. It would have been impossible for the mothers in this Delaware program to take advantage of the training leading to self-sufficiency, if child care were not available and affordable through government funding. We have similar programs throughout the country and invite members of this subcommittee to visit so you too can see programs which work, at significant long range financial savings to cities, states, and federal spending.

As a provider of service for more than 100 years in housing, employment training, child care and health, the YWCA of the U.S.A. recognizes the need for bringing multiple child care programs under one funding stream. We support this effort so long as such consolidation provides adequate support and funding to enable families to break the cycle of poverty.

I am testifying on behalf of the 229 YWCAs which care for more than 350,000 children every day to urge you to retain three elements of the current Child Care Development Block Grant: 1) the set-aside for training of child care providers; 2) the inclusion of school-age child care as a required component for funding; and 3) the current entitlement component of the At-Risk Child Care Program, Title IV-A Child Care for AFDC Recipients and Title IV-A Transitional Child Care. I also urge an increase in child care resources and for the subcommittee to keep the Child and Adult Food Grant (CACFP) and Head Start programs as separate programs.

Training for child care providers

Many child care providers are themselves recently off of welfare. Child care agencies, such as the YWCA, provide an entry level work opportunity where mothers can enhance their working and parenting skills. The excellent training provided by this program has helped child care employees gain valuable skills, move up the career ladder and increase their self-sufficiency.

If welfare reform is instituted, with more mothers required to return to work and the number of affordable child care slots insufficient to meet the needs of low income women, some states will eliminate training to create more child care spots.

In 1989, prior to the passage of the Child Care Development Block Grant, nearly half of the states provided little or no assistance to providers in improving their skills with children. Currently, nearly every state provides some training, and they also have choice in the method of using this training set-aside. This program has worked effectively in improving quality child care and enhancing women's employment opportunities. We urge you not to change this effective set-aside in the new block grant.

(more)

School-age child care

The YWCA, along with many community-based organizations, has a long history of providing school age child care, particularly after-school programming. Child care needs do not stop when a child enters school as any parent will readily acknowledge and as many employers can attest. The 3:15 call to the workplace has been noted by the telephone companies, as volume increases when "latch-key" children call their parents. Studies also show that the majority of teen-age parents became pregnant between 3 and 7 P.M. when there is no adult supervision. In addition, fire departments have identified an increase in arson by school-age children who are not supervised after school. We encourage language in the final bill which recognizes the need for child care from birth through age 14 and includes community-based organizations as recipients of governmental funding. We also support collaborative programming between schools and organizations, such as the YWCA.

Entitlements

Low and moderate-income mothers cannot work without affordable child care. Currently three child care programs function as entitlements. They are the Title IV-A Child Care Program for AFDC Recipients, the Title IV-A Transitional Child Care and the "At-Risk" Child Care Program. Removing the entitlement component of programs for women receiving AFDC or beginning new entry level employment will make it impossible for many willingly employed mothers to work. If the entitlements are removed, states will be faced with impossible decisions about which parents should have child care: low income employed parents or those going off welfare. Will we continue the revolving door of employment and unemployment or will we fund programs which encourages job and salary advancement?

At a time when Congress has stated that states will have no unfunded mandates, removing parents from welfare without funding child care slots as an entitlement is a form of "unfunded mandate" for American workers. If welfare reform requires work for people previously receiving AFDC, Congress must also fund affordable child care for the newly employed people. Elimination of these Entitlements could lead to an increase in crime, more homeless sleeping outside businesses, alternative negative behavior becoming the norm, and, most importantly, America's children irreversibly harmed.

Adequate resources through Private-Public Partnership

In 1994, the YWCA provided job training for more than 50,000 people in 173 communities and other career services for 40,000 people in 67 communities. We provided low income housing for more than 150,000 women, children, and families in more than 250 communities. We provided child care for more than 350,000 children in over 1000 sites. All of those services have been provided because we believe in empowering women to be self-sufficient. But our 135 years of experience in housing, employment, and child care has taught us that self-sufficiency cannot occur if women do not have safe child care provisions for their children. Our experience has also taught us that successful programs are the result of private-public partnerships. Affordable child care can only be provided with the combined resources of government, the for-profit sector and nonprofit organizations.

Simplifying the funding streams by combining programs into one can be an asset, but that alone will not solve the major problem of child care which is inadequate funding. Eliminating entitlements will place competing demands on states which many will not be able to meet without reducing services, at a time when welfare reform requires even more services.

(more)

Maintenance of Federal Programs that Work

I urge you to keep the following two programs separate from an enlarged child care block grant: (1) food programs, including the Child and Adult Care Food Grant (CACFP) and (2) Head Start.

Both of these programs have operated as separate Federal programs since their inception. They are both examples of successful programs which are performing as intended. They should remain Federal programs. Giving the states the option to run one or both of these programs would put badly needed programs in jeopardy. Furthermore if a state decided, for the interest of children's growth and development, to establish a new food program and/or Head Start, that state would have to set up new administrative organizations, a needless use of time and money. Placing one or both programs in a block grant with child care programs and not providing sufficient funds to meet the needs of working people, will also mean wasted energy as competing demands are placed on states.

Summary

In summary, on behalf of the more than one million YWCA members and their families, I urge Members of this Sub-Committee to:

- Maintain training as a separate set-aside for states;
- Continue support of school-age child care;
- Keep entitlements in Title IV-A child care programs and the "at-risk" child care program;
- Increase resources to child care so that AFDC parents can work and so that low and moderate income parents can continue to work; and
- Leave CACFP and Head Start as they have been since they were created.

Taken together, the above recommendations provide a sound program to accompany the new enlarged child care block grant currently under discussion.

I'd like to end this written testimony as I began, by inviting any or all of the members of this subcommittee to visit a YWCA to see programs building self-sufficiency in operation.

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